



Atty. Dkt. No. 084561-0108

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Mark LANDESMANN  
Title: BUYER-DRIVEN TARGETING OF  
PURCHASING ENTITIES  
Appl. No.: 09/888,439  
Filing Date: 06/26/2001  
Examiner: Khanh H. LE  
Art Unit: 3622  
Confirmation No. 9934

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF, AND  
REVISED APPEAL BRIEF**

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Sir:

In response to the Notice of Non-Compliant Appeal Brief dated December 31, 2007, the following is the Appellant's Revised Appeal Brief under the provisions of 37 C.F.R. § 41.37. An Appeal Brief fee has been previously submitted to the PTO on April 20, 2006.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

### **1. REAL PARTY IN INTEREST**

The real party in interest is the assignee of record, BUYERLEVERAGE, as reflected in an assignment recorded at the US Patent and Trademark Office, reel/frame: 014335/0573.

### **2. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences that will directly affect, be directly affected by, or have a bearing on the present appeal, that are known to appellant, the assignees, or appellant's patent representative. Because there are no related appeals or interferences, there is no Related Proceedings Appendix.

### **3. STATUS OF CLAIMS**

Pending Claims: 1,10-13, 47-49, 51-52, 64-65, 68, 94, 100-103, 137-139, 141-142, 154-155, 158, 204, 206-238, 246, 250, 252-290, 298, 302, 304-339, 347, 351, 353-357.

Cancelled Claims: 2-9, 14-46, 50, 53-63, 69-93, 95-99, 104-136, 140, 143-153, 156-157, 159-203, 205.

Withdrawn Claims: 239-245, 247-249, 251, 291-297, 299-301, 303, 340-346, 348-350, 352.

### **4. STATUS OF AMENDMENTS**

No amendments have been filed subsequent to the final rejection.

### **5. SUMMARY OF CLAIMED SUBJECT MATTER**

All bases in specification are only meant to show that the elements of the claim language are at least in those referenced excerpts of the specification. They are not meant to be comprehensive, and to show all specification mentions and disclosures of a particular claim element.

The invention addresses a fundamental and unmet need of merchants/advertisers: It is widely known that a relatively small percentage of a company's customers normally account for the lion's share of its revenues and profits. It is therefore very important for an advertiser to direct his customer acquisition efforts at those buyer entities that have the proven potential to be among the advertiser's most valuable customers.

For many years, companies have used consumer data to customize their offerings. Historically, a company has obtained such data by recording sales to its own customers, by for example, asking its customers to fill out surveys to obtain demographic data (such as age, or geographic location) and information on their stated preferences, or by installing cookies on the computers of online customers to monitor their web-browsing behavior, (see Background of the Invention in the Specification.) However, the prior art provides advertisers with few reliable and effective ways of identifying and targeting prospective new customers with verifiably attractive purchase histories. As stated in the specification, [a] "marketer who can direct her customer acquisition efforts at those buyer entities who are - on the basis of their past purchase histories - most likely to become valuable customers can afford to divert resources from less efficient and less targeted advertising channels." (Paragraph 5, Page 3)

At the heart of the claim 1 embodiment of the present invention – and the marketplace it creates – is a fundamental trade between buyer entities and advertisers:

the buyer entities provide advertisers with the benefit of the use of their third-party purchase records ("receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom"), see paragraphs 132 to 152 of the application for the processes and methods (or similar methods) encompassed by this element; and

the system, in accordance with other claim limitations, electronically makes a decision based on these third party purchase records ("electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives . . . said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with

the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive;”) and then

provides to buyer entities that have provided third party purchase records, (“facilitating the offering of at least one of said preferential incentives to said buyer entity . . . with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom”)

exclusive “preferential incentives,” i.e., not available to everyone, but with the decision on the offer based on purchases that buyer entity made with merchants other than the advertiser (“said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive”),

with the preferential incentive providing a benefit to the buyer entity if there is an action by the buyer entity associated with a purchase (“each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items”),

said incentives being offered to promote the purchase of products relating to which the essential day to day business functions are (and need to be) conducted independently from the system (“for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business”).

Synergies:

Although the Patent law as set forth in the statutes and case law requires only that a combination be useful, novel and non-obvious for patentability, as stated in previous filings, the presently claimed invention also creates the following fundamental synergies:

First, because of the direct and self-initiable participation of many advertisers and buyer entities, the system becomes more and more attractive to a greater number of



participants as it grows. The greater the number of participating buyer entities, the greater the attractiveness of the present system to new third party advertisers. In turn, as the number of third party advertisers increases, the system becomes increasingly attractive to buyer entities, and the number of participating buyer entities increases as well. The growth of the system therefore has the potential of feeding and accelerating its own further growth, spreading its benefits to an ever increasing number of participants.

Second, the present invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information by a buyer entity and the buyer entity's response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of the buyer entity, and so forth. The participation and response of a buyer entity feeds and promotes greater participation by that buyer entity in the future, making such participation more lucrative and rewarding.

A final synergy that the present system generates is that advertisers compete for the business of buyer entities by setting incentive reward levels that will give their particular incentive offer a higher standing as buyer entities sort their incentive offers by level of attractiveness, or as the system presents these offers to buyer entities in a sequence determined by their estimated value to the viewing buyer entity. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase records, and its demonstrated propensity to respond to incentive offers for new products and services.

The structure associated with the elements of the independent claims will now be provided, making reference to the specification by paragraph numbers and the figures.

1. A method for buyer-driven targeting by a system comprising:  
receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom [at least Abstract, Fig. 3A, 020], said

purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system [Fig 3A, 132-154], wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record[Fig 3A, 132-154];

electronically storing information associated with said data[Fig 3A, 32,130, 132];

for a plurality of product or service items offered for sale [Fig. 3A and 3B, 62, 83, 118], wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, 62, 83, 118], and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business [Fig. 3A and 3B, 62, 83, 118, 195-211], electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives [Fig. 3A and 3B and associated text], with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items [120-126], said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent [40-42, 54, 93, 100, 189], and which do not include material conditions that are different from said at least one action[40-42, 54, 93, 100, 189], said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive[40-42, 54, 93, 100, 159, 179, 189, 195-211, Figs 3A and 3B and associated text]; and

facilitating the offering of at least one of said preferential incentives to said buyer entity [Figs 3A and 3B and associated text], without having transferred to said third

party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity[119,120,277], with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom[Figs 3A & 3B, 132-154].

94. A system for buyer-driven targeting ~~by a system~~ comprising:  
an electronic storage[Fig.2, 130]; and  
a set of processors that use the electronic storage and include among them the following logic elements[Fig.2 and associated text, 130-131]

a first component for receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom [at least Abstract, Fig. 3A, 020], said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system [Fig 3A, 132-154], wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record[Fig 3A, 132-154];

a second electronic component for storing information associated with said data[Fig 3A, 32,130, 132];

for a plurality of product or service items offered for sale [Fig. 3A and 3B, 62, 83, 118], wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, 62, 83, 118], and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business [Fig. 3A and 3B, 62, 83, 118, 195-211], a third electronic component for making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives [Fig. 3A and 3B and associated text], with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], each of said

incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items [120-126], said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent [40-42, 54, 93, 100, 189], and which do not include material conditions that are different from said at least one action[40-42, 54, 93, 100, 189], said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive[40-42, 54, 93, 100, 159, 179, 189, 195-211, Figs 3A and 3B and associated text]; and

a fourth component for facilitating the offering of at least one of said preferential incentives to said buyer entity [Figs 3A and 3B and associated text], without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity[119,120,277], with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom[Figs 3A & 3B, 132-154].

.204. A program product for buyer-driven targeting by a system comprising:

a set of computer usable media having computer readable program code embodied therein to be executed by a computer, the computer readable program code comprising program code to perform the following method [Figs. 1 and 2, and associated text, 75]:

receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom [at least Abstract, Fig. 3A, 020], said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system [Fig 3A, 132-154], wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record[Fig 3A, 132-154];

electronically storing information associated with said data[Fig 3A, 32,130, 132];

for a plurality of product or service items offered for sale [Fig. 3A and 3B, 62, 83, 118], wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, 62, 83, 118], and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business [Fig. 3A and 3B, 62, 83, 118, 195-211], electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives [Fig. 3A and 3B and associated text], with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers [Fig. 3A and 3B, 62, 83, 118, 195-211], each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items [120-126], said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent [40-42, 54, 93, 100, 189], and which do not include material conditions that are different from said at least one action [40-42, 54, 93, 100, 189], said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive [40-42, 54, 93, 100, 159, 179, 189, 195-211, Figs 3A and 3B and associated text]; and

offering of at least one of said preferential incentives to said buyer entity [Figs 3A and 3B and associated text], without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity [119, 120, 277], with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom [Figs 3A & 3B, 132-154].

206. A method for buyer-driven targeting by a system comprising:

receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom [at least Abstract, Fig. 3A, 020], said

purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system[Fig 3A, 132-154], wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record[Fig 3A, 132-154];

electronically storing information associated with said data[Fig 3A, 32,130, 132];

for a plurality of product or service items offered for sale[Fig. 3A and 3B, 62, 83, 118], wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, 62, 83, 118], and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business [Fig. 3A and 3B, 62, 83, 118, 195-211], electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives[Fig. 3A and 3B and associated text], with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers[Fig. 3A and 3B, 62, 83, 118, 195-211], wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers[Fig. 3A and 3B, 62, 83, 118, 195-211], each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items[120-126], said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent[40-42, 54, 93, 100, 189], and which do not include material conditions that are different from said at least one action[40-42, 54, 93, 100, 189], said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive[40-42, 54, 93, 100, 159, 179, 189, 195-211, Figs 3A and 3B and associated text]; and

offering of at least one of said preferential incentives to said buyer entity[Figs 3A and 3B and associated text], without having transferred to said third party advertiser any

full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity[119,120,277], with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom[Figs 3A & 3B, 132-154];

wherein said receiving comprises automatically accessing web-based online accounts of said buyer entities using passwords and usernames of said buyer entities for gathering at least some of said information relating to said purchases made by the buyer entities, said passwords and usernames being provided on the initiative and with the consent of the buyer entities [148-152]; and

wherein access is provided to at least one of the buyer entities to individual items of information in a profile associated with that buyer entity with an option to delete said individual item of information[137, 143, 150].

207. A method for buyer-driven targeting by a system comprising:

receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom[at least Abstract, Fig. 3A, 020];

electronically storing information associated with the data[Fig 3A, 32,130, 132];

for a plurality of product or service items offered for sale[Fig. 3A and 3B, 62, 83, 118], wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers[Fig. 3A and 3B, 62, 83, 118], electronically making with respect to at least one of the buyer entities, based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives[Fig. 3A and 3B and associated text], with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers[Fig. 3A and 3B, 62, 83, 118, 195-211], wherein there is at least one different incentive from each of a plurality of the different third party advertisers[Fig. 3A and 3B, 62, 83, 118, 195-211], each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items[120-126]; and

facilitating the offering of at least one of the incentives to the buyer entity[Figs 3A and 3B and associated text], with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom [Figs 3A & 3B, 132-154].

259. A computer program product for buyer-driven targeting by a system comprising:

a set of computer usable media having computer readable program code embodied therein to be executed by a computer, the computer readable program code comprising program code to perform the following method [Figs. 1 and 2 and associated text, para 75]:

receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom [at least Abstract, Fig. 3A, paragraphs 020, 132-154];

electronically storing information associated with the data [Fig. 3A, para 32, 130, 132];

with respect to a plurality of product or service items offered for sale, wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, para 62, 83, 118], electronically making with respect to at least one of the buyer entities [Fig. 3A and 3B, para 62, 83, 118], based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives, with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers [Fig. 3A and 3B, para 62, 83, 118, 195-211], wherein there is at least one different incentive from each of a plurality of the different third party advertisers [Fig. 3A and 3B, para 62, 83, 118, 195-211], each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items [para. 120-126]; and

facilitating the offering of at least one of the incentives to the buyer entity [Fig. 3A and 3B, and associated text paragraphs], with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom [Fig. 3A and 3B, para 132-154] .



308. A system for buyer-driven targeting by a system comprising:  
an electronic storage; and  
a set of processors that use the electronic storage and include among them the following logic elements [Fig. 2 and associated text, 130-131]  
logic for receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom; [at least Abstract, Fig. 3A, paragraphs 020, 132-154]  
logic for electronically storing information associated with the data; [Fig. 3A, para 32, 130, 132]  
logic for, with respect to a plurality of product or service items offered for sale [Fig. 3A and 3B, para 62,83, 118], wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers [Fig. 3A and 3B, para 62, 83, 118], electronically making with respect to at least one of the buyer entities, based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives [Fig. 3A and 3B, para 62, 83, 118], with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers [Fig. 3A and 3B, para 62, 83, 118, 195-211] wherein there is at least one different incentive from each of a plurality of the different third party advertisers [Fig. 3A and 3B, para 62, 83, 118, 195-211], each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items [para. 120-126]; and  
logic for facilitating the offering of at least one of the incentives to the buyer entity [Fig. 3A and 3B, and associated text paragraphs], with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom [Fig. 3A and 3B, para 132-154] .

## **6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The issue on appeal is whether the Examiner erred in rejecting the pending claims over the following reference combinations:

Claims 1, 10-13, 47-49, 51-52, 64, 94, 100-103, 137-139, 141-142, 154, 204, 207-230, 232-238, 246, 250, 259-282, 284-290, 298, 302, 308-331, 333-339, 347 and 351 under 35 USC 103(a) as being unpatentable over Goldhaber, US 5,855,008, in view of Weinblatt, US 5,515,270, and further in view of Day, US 6,484,146.

Claims 68 and 158 under 35 USC 103(a) as being unpatentable over Goldhaber, US 5,855,008, in view of Weinblatt, US 5,515,270, and further in view of Day, US 6,484,146, and further in view of Dedrick, US 5717923;

Claims 206, 231, 252-254, 256-258, 304-306, 308-310, 353-355, 357-359 under 35 USC 103(a) as being unpatentable over Goldhaber, US 5,855,008, in view of Weinblatt, US 5,515,270, and further in view of Day, US 6,484,146, and further in view of admitted prior art.

## **7. ARGUMENT**

- a. **35 U.S.C. 103 rejection of claim 1, and parallel claims 94 and 204** as being unpatentable over Goldhaber, US 5,855,008, in view of Weinblatt, US 5,515,270, and further in view of Day, US 6,484,146 is traversed for the following reasons:

The Examiner rejects these claims under 35 U.S.C. §103(a) as being unpatentable over Goldhaber US 5855008, hereinafter referred to as “Goldhaber”, in view of Weinblatt US 5515270, hereinafter referred to as “Weinblatt”, and further in view of Day, US 6484146, hereinafter referred to as “Day.” This rejection is respectfully traversed and reversal is requested.

The claimed system receives third party purchase records, or information derived therefrom, from the buyer entity, see the processes and methods described in paragraphs 132 to 152 of the application (or similar methods), and then, in accordance with other claim limitations, electronically makes a decision based on these third party purchase records regarding an offer of a preferential incentive (“electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision

associated with the offering of at least one from among a plurality of different preferential incentives . . . said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive;”) and then provides

an offer to buyer entities that have provided third party purchase records, (“facilitating the offering of at least one of said preferential incentives to said buyer entity . . . with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom”) of

exclusive “preferential incentives,” i.e., not available to everyone, and the decision on the offer based on purchases that buyer entity made with merchants other than the offer advertiser (“said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive”),

with the preferential incentive providing a benefit to the buyer entity if there is an action by the buyer entity associated with a purchase (“each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items”),

said incentives being offered to promote the purchase of products relating to which the essential day to day business functions are (and need to be) conducted independently from the system (“for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business”).

Referring to the references:

Goldhaber discloses targeting ads based on consumer profiles obtained through questionnaires and through tracking the consumer’s use of the Goldhaber’s own

system, which comprises prior transactions of that consumer *made while using the Goldhaber system*. In other words, the sales records used, if any, are the system's own records. The consumer does not have the option to submit other records, and can only delete selected or all of the Goldhaber system sales records.

Goldhaber can target ads based on limited consumer profiles generated within its system (and as described in greater detail below.) Importantly, there is also no offering of "preferential incentives," i.e., incentives generally not accessible to others, as defined in the claim language.

Goldhaber teaches the use of cyber coins that reward a consumer for reading or opening up/clicking on an ad, regardless of whether the consumer subsequently takes an action associated with a purchase. There is no "condition precedent" that the consumer have previously provided or authorized the provision of third party purchase records. There is no decision on whether to offer the preferential incentive based on "data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive."

In Day, the advertised products are all distributed by the system (the store(s)) in the ordinary course of business, and this distribution enables the provision of advertisements. Day does NOT make a decision by allotting coupons based on data emanating from buyer-submitted third party purchase records, or based on any buyer-submitted data or information derived therefrom. In the present invention, the offering step specifies that the decision regarding the offering of an incentive must be based on "*the* data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive". It specifies, that such data must have emanated from a buyer-submitted third party purchase record. But the data in Day are generated by recording the purchase behavior of the buyer entity during store visits, not by asking the buyer entity to submit data, or by processing and using such data, and coupons are offered based on in-store sales, and not any other, data.

Day does not disclose "preferential incentives" being decided upon or offered as defined in the claim language. Although Day discloses customized coupons, and in column 8 provides that customers who have declined to act on a first coupon, may be given a second coupon with a higher discount, no disclosure is made that would imply that the Day

coupons meet the previously cited claim language regarding the exclusive and preferential nature of the incentives in the present system. In other words, the coupons with increased value are available to any consumer that has ignored the first communicated offer. Day does not suggest or recommend that his system be used to acquire the quality, quantity and depth of knowledge that can only be obtained by opening the system to the buyer-driven submission of a potentially wide variety of third party purchase records relating to purchases made with many online and offline retail outlets. Accordingly, Day's system does not enable a retailer to provide a "preferential incentive" to consumers which can be distinguished from a run-of-the-mill targeted discount available through other venues. (See below for a more detailed explanation of the difference between preferential incentives, as defined in claim 1, and customized advertisements or coupons.)

Weinblatt provides a generic disclosure that after watching television and recording the ads shown while the television was on, the consumer can then use a bar code reader to identify any products the consumer subsequently purchases. Note that reading a bar code on a product does NOT result in a third party purchase record. It provides no clear proof, like a third party purchase record, that the consumer actually purchased the product. The consumer could thus "game" the system, for instance by borrowing and scanning a neighbor's or a friend's products, or by taking the bar code reader to a store and scanning shelved (and unsold) products. This is not nearly as big a problem for Weinblatt, because the Weinblatt rewards do not depend on the content of purchase records, but instead are a compensation for the consumer's cooperation in measuring ad effectiveness. Nevertheless, Weinblatt himself considers use of the bar code reader by consumers "suspect" even for purposes of his own system (see quoted excerpt below.) In regard to the present inventive system, the combination of Goldhaber with a Weinblatt bar code recordation of claimed product purchases would be impractical, and unworkable. As stated in Background of the Invention of the present invention, self-reported purchases by consumers are unreliable, even in the absence of differential incentives that are based on these purchase records.

One of ordinary skill in the art cannot get to applicant's claimed system using these references. Specifically, it is settled that the person of ordinary skill in the art "thinks along the lines of conventional wisdom in the art and is not one who undertakes to innovate" - *Standard Oil Co. v American Cyanamid Co.*, 227 USPQ2d 293, 298 (Fed. Cir. 1985). It is

further settled that, in order to establish a prima facie case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be motivated to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered as statutorily required. This has not been shown by the three-reference rejection and the multiple examiner notices.

At the outset we wish to respond to a note made by the Examiner on page 5 of the May 20, 2005 Office Action (hereinafter referred to as “the Office Action” or “OA”): “[t]he Examiner notes that the main hurdle in claim 1 still resides in the definition of the system”. It is not understood what the specific problem is that Examiner has with the definition of system. The term “system” is to take its ordinary meaning in the context of a patent claim, i.e., as the hardware, software, operating guidelines and operations to provide the functionality of the independent claim. To remove any conceivable remaining ambiguities, this definition of system supersedes all previous Remarks and comments made with respect to the term. In this context, “for which the payment was not carried out by the system” means: at the time that the third party purchase record is received from a buyer entity, the system has not made a payment to the merchant for the purchased product or service evidenced in the purchase record.

For purposes of illustration, and not for purpose of limitation the following example is provided. A buyer entity called Max has spent \$30 at Bloomingdale’s on a purchase of socks.

Example 1: Bank A has issued a Visa Credit card to Max, and Max uses his Bank A Visa credit card to pay for the socks: As a result of the transaction, a record of the sale is created, and the data is transferred to Bank A for payment processing and credit card billing. In this example the receipt of data by Bank A does not meet the definition of the receiving step in claim 1, because Bank A has not received a third party purchase record from Max (nor has Max provided information to Bank A that was derived from his purchase record.)

Example 2: Max not only has a Bank A Visa Card, but also carries and uses a separate Bank B Visa Card. Max allows for the transfer of his Bank B credit card statements to Bank A, while using the present inventive system operated by Bank A. This time, Max

pays \$45- for a shirt he is purchasing at Neiman Marcus with his Bank B Visa card. When Bank B provides Max with his credit card statement on its website, the data is automatically transferred to Bank A, as per Max's instructions or consent, or via a program that automatically retrieves and transfers such data, as described in the specification. Bank A receives the record of the \$45 shirt purchase, makes a decision on an offer based on third party purchase records for Max, and subsequently provides Max with a preferential incentive offer, not offered to everyone, from Filene's Basement for less expensive but similar shirts.

Here, the submission of the shirt purchase record *does* meet the language of the receiving step in claim 1. This is because Bank A has received the shirt purchase data from Max (on his initiative and with his consent), and because Bank A had not, at the time it received the purchase record, carried out the payment for the shirt to Neiman Marcus. (Note that the submission of the shirt purchase record would be comprised by the language of the claim 1 receiving step, even if Bank A would, in this example, later pay (or help effectuate payment) of Max's credit card bill to Bank of America, for instance, by executing a wire transfer to Bank B of monies held by Max at a Bank A account, or at another bank's account. This is because this payment is made subsequent to Max's submission of the third party purchase record, and also, because the payment is not for the socks, but in settlement of Max's credit card bill.)

Referring now in more detail to the references:

#### **GOLDHABER DOES NOT DISCLOSE THE RECEIVING STEP**

The receiving step of Claim 1 : "receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record" is not disclosed or suggested in Goldhaber.

The Goldhaber patent, "Attention Brokerage" provides "an approach for distributing advertising (...) over a computer network" [based on] "the business of buying and selling the 'attention' of consumers. It can be used to provide direct immediate payment to a consumer for paying attention to an advertisement." (Excerpt from Goldhaber Abstract).

The Examiner admits “[a]s to the ‘data associated with the purchase of products or services for which the payment was not carried out by the system’ arguably GOLDHABER does not specify such.” (OA, page 10, first paragraph) But the Examiner also makes citations to Goldhaber relating to the consumer profile such as column 6, lines 50-65; column 8, lines 20-39; and column 7, lines 31-32, with the implication that Goldhaber discloses the submission of third party purchase records by buyer entities. The main excerpt relating to consumer profiles, column 6, lines 50-65 in Goldhaber reads as follows:

“The demographic profiles can be constructed through interest questionnaires that the consumer completes when subscribing to the service, and also through electronic tracking of his/her usage of the service (and other habits). Thus, the profiles can be dynamic, evolving with the customer's transaction history. A customer can choose to exclude any transaction (e.g., viewing of certain material or purchasing of certain products) from his profile. Profiles can also be interactive in that a customer may edit his profile at any time to add or delete interest features, and to delete any transaction records. Thus, for example, the customer can delete historical transaction entries evidencing her purchase of an ‘adult’ film if desired. Similarly, the customer can change her profile to express interest in seeing certain types of automobile advertisements, and then, after she has selected and purchased a new car, delete those profile entries.”

The above paragraph does not disclose the submission of third party purchase records by buyer entities. Absent hindsight provided by the present patent application, there is nothing in the Goldhaber patent that suggests such a departure from the data sources that were in common day-to-day use at the time of the Goldhaber invention (and which are in common day-to-day use now). The Goldhaber system comprises (1) customer responses to questionnaires, (2) observing the web browsing habits of consumers, and (3) recording or monitoring behavioral information generated by the use or consumption of a company's own system, service, and product offering. Like other online and offline retailers, distributors, and resellers, the Goldhaber system facilitates the sale of multiple products and services from



multiple merchants, and generates its own transaction data for these various products and services. It discloses nothing more regarding the procurement of transaction data.

As noted above, the office action also makes reference to columns 13-20, an excerpt that is too long to reproduce here, and to columns 7, lines 31-32,

“The ads would be preselected for her [a user of the system] on the basis of a personal profile questionnaire that she has completed plus automatic tracking of her previous Internet usage.”

Neither of these additional referenced Goldhaber excerpts comprise a disclosure of receiving third party purchase records from buyer entities.

**WEINBLATT DOES NOT REMEDY THE THIRD PARTY PURCHASE RECORD DEFICIENCY OF GOLDHABER**

Specifically, Weinblatt does not disclose “receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative (...) of the buyer entity associated with that purchase record.”

On this issue, the examiner makes three Weinblatt citations. The first is column 1, lines 56 +, and relates to recording which commercials are run during the time a television is turned on in a consumer’s home, and then having the consumer use a bar code reader to read the bar codes on products brought into the home. The quote reads as follows:

“A second known approach involves recording the television programming, including commercials of course, watched in a particular household. This information is stored in an electronic memory. Consumer purchase behavior is recorded by the use of a bar code reading apparatus, such as a wand, which is passed over each purchased product when it is brought home. Information available with this technique is of limited value because it is usable only with products bearing a bar code. A great number of products are not sold with a bar code, such as gasoline, pharmaceuticals, major appliances, clothing and unpackaged food items. Moreover, the purchase of services, such as is provided by airlines, movie houses and theaters,

certainly cannot be monitored. Also, a great deal of effort by the consumer is required to scan each and every purchased item individually. Since the scanning must be done when the consumer returns home and before the purchases are stored away, the person is already tired and/or eager to get started on other tasks and, therefore, may not perform the scanning. Such failure to carry out the recording of purchases part of this monitoring approach is even more likely for perishable items such as ice cream which need to be refrigerated or kept frozen almost immediately upon the consumer's return home. Consequently, consumer cooperation with this technique is also suspect in addition to being of limited value due to total reliance on only bar-coded items."

As noted earlier, reading a bar code does not result in a purchase record. It identifies the product. It would be very easy for the consumer to "game" the system with products brought in from a neighbor, or by taking the bar code reader to a store and scanning shelved (and unsold) products.

The second quote from the Office Action is column 2, lines 13 +. The quote relates to the identification of the consumer via the use of an ID card when making an over-the-counter purchase at a store. The purpose of the ID card is to identify the consumer for the purchase of the store's own goods.

The third citation, column 4, lines 59 +, in the Office Action relates to the actual invention of Weinblatt. As summarized by Weinblatt in his Abstract, "Advertisements and promotions to which a consumer has been exposed are monitored together with the subsequent purchasing behavior of that consumer. The information is combined to analyze whether and to what extent the advertisements and/or promotions influenced the consumer's purchases. Purchases are monitored by producing a machine readable record thereof with a store cash register. The consumer inserts this record into a home unit which stores this information. The home unit is also capable of issuing a reward to the consumer for cooperating." (Emphasis added.)

Weinblatt's inventive system, "Technique for Correlating Purchasing Behavior of a Consumer to Advertisements" does not itself improve the quality or effectiveness of advertising. Instead, it *measures* that quality and effectiveness. Weinblatt does not provide an advertiser with data that it did not previously own. Rather, it allows an advertiser to

correlate it's own pre-existing sales data with advertisements, and to control, retrieve, and present this data in a new manner that illuminates ad effectiveness.

Weinblatt's inventive system is used by a retailer to understand its own sales histories, and cannot be used to record transactions made with companies that do not explicitly and proactively cooperate with its system. Weinblatt's prescribed method of transaction recordation depends on and begins with the "produc[tion] of a [specialized] machine readable record ... " by the retail store [the seller of the products] (Abstract). This record is produced "with a suitably modified cash register" (col. 8, line 13, emphasis added.) The patent explicitly refers to the need for "retrofitting" these cash registers (see for instance, column 10, line 32)). A specialized home unit is built and provided to the user by the operator of the Weinblatt inventive system to read this machine readable record. Importantly, what is being submitted is the merchant's own record that it has previously created with its modified cash registers. The purpose of the system is to correlate the purchase with a television ad or other advertising.

Thus, in Weinblatt,

- the received purchase records are not "third party purchase record[s]", and
- the received purchase records do not "compris[e] data associated with the purchase of products or services for which the payment was not carried out by the system."

Note also that there is no motivation to combine Goldhaber and Weinblatt. The examiner cites a generic motivation of the consumer being interested in highly competitive offers based on proof of purchase data. However, it takes a leap of faith to go from the standard recordation of a store or system's own records, as disclosed in both Goldhaber and Weinblatt, to the concept of allowing advertisers to access the sales records of direct competitors, which have been provided by or with the assistance of consumers for purpose of proving their attractiveness as potential prospects. As stated in the specification, such competitive transaction records would not be made available by a merchant to his direct competition to allow competitors to target/poach its customers, and can therefore only come from the buyer entity or through his instruction and permission.

**NEITHER GOLDHABER, WEINBLATT NOR DAY DISCLOSE OR SUGGEST THE DECISION STEP OR THE OFFERING STEP**

The Decision Step and the Offering Step are not met by these references. The claim elements read as follows:

“for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business, electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives, with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers, wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive; and

facilitating the offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.” (Emphasis added.)

These steps are not disclosed by Goldhaber. The Examiner points out that Goldhaber does not “directly disclose,” the claim element relating to the preferential incentive “said benefit not normally and publicly accessible to said buyer entity or other

buyer entities in the same geographic region on terms which are at least objectively equivalent” (OA, page 12, 2<sup>nd</sup> paragraph).

The examiner also notes that Goldhaber “does not directly disclose the claim language relating to the preferential incentive “wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items” (OA, bottom of page 12 and the top of page 13).

The examiner also notes that Goldhaber “does not specifically disclose ” the claim language preventing the system from providing incentives to consumers who have provided third party purchase records, i.e., “with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.”

However, the examiner cites column 6 lines 28-35; column 8, lines 22-40; column 12, lines 31-36; and column 14, line 65 to column 15, line 6 of the Goldhaber specification in the context of these limitations. Yet, none of these excerpts discloses preferential advertisements, as defined in the claim. The excerpts disclose targeted and customized advertising, which is the presentation of different advertisements to different consumers, in an effort to match consumers with those advertisements they are most likely to respond to, and in order to reduce the cost of advertising. But targeted and customized advertisements are different from “preferential incentives,” which are by definition exclusive, in that they are not available or accessible to all buyer entities. For instance, an Italian Restaurant might have an early bird dinner 15% off special on Wednesdays between 4 and 5:30 pm, which it advertises to some consumers, but not to others. However, this does not mean that those consumers who did not receive the advertisement would be ineligible for the early bird price when they visit the restaurant at the prescribed time. By contrast, to make an offer of 60% to some consumers while foreclosing that offer to others is a preferential incentive as comprised in the definition of the claim language. The non-availability, and exclusiveness, of such an exclusive offer is no small matter. For the Italian restaurant, making such an offer is normally economical for the restaurant’s owner if, and only if, the recipients of that offer are, based on their prior purchase histories, substantially more likely to become repeat buyers than the average customer. But, to make the provision of such an offer,

that virtually eliminates a restaurant's gross profit margin, economical, it *must* be made inaccessible to the general public. If it is made publicly accessible, the offer will attract opportunity seekers that take advantage of that offer without having any inclination to come back to the restaurant, and to consume at regular prices that are profitable to the restaurant owner. As the specification of the present invention states, "customers who take advantage of promotions are often those that are least likely to be valuable repeat customers in the future. For many product categories, the best buyer entities are those that are too busy to hunt for a promotional offer that is available to everyone. An offer of a free sample or a \$20 rebate on the first purchase is generally most attractive to those whose opportunity cost of time is the lowest." (Paragraph 4)

With respect to the fourth step, the Offering step, Goldhaber does not disclose "facilitating the offering of at least one of said preferential incentives to said buyer entity (...) with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom." The Examiner's citation to column 6, lines 36-40 relating to "tailor[ing] individual promotions" does not disclose this limitation.

Regarding Weinblatt, this reference also does not disclose the Decision and Offering Steps. Weinblatt is focused only on retroactively correlating purchases with ad viewing.

The Office Action relies on Day to remedy the Goldhaber and Weinblatt deficiencies with respect to the Decision and Offering Steps. (Day does not disclose the receiving step, and no such disclosure is asserted by the Examiner.)

The Day reference, entitled "Targeted Marketing and Purchase Behavior Monitoring System" is directed to a system for monitoring the in-store purchase behavior of consumers, and for providing these consumers with customized coupons in the course of their visits at the stores of a retail chain. See the examiner's citation to column 1, lines 50-55, column 2, lines 13-15 and column 8, lines 1-15. Day is deficient with respect to claim 1 as follows:

- The claim language of the present invention specifies that the advertising products are "either manufactured or marketed or distributed or provided" by the advertiser, wherein said "manufacture, marketing, distribution, point of sale payment, or

provision” of the advertised product is not carried out by the system in the ordinary course of business. In Day, the advertised products are all distributed by the system (the store(s)) in the ordinary course of business, and this distribution enables the provision of advertisements. (This advertiser independence is important to the proper working of the claim 1 embodiment for reasons further specified below.)

- Day does NOT make a decision by allotting coupons based on data emanating from buyer-submitted third party purchase records, or based on any buyer-submitted data. The offering step specifies that the decision regarding the offering of an incentive must be based on “*the* data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive”. It specifies, that such data must have emanated from a buyer-submitted third party purchase record. But the data in Day are generated by recording the purchase behavior of the buyer entity during store visits, not by asking the buyer entity to submit data, or by processing and using such data, and coupons are offered based on this, and not any other, data.
- Day does not disclose “preferential incentives” being decided upon or offered as defined in the claim language. Although Day discloses customized coupons, and in column 8 provides that customers who have declined to act on a first coupon, may be given a second coupon with a higher discount, no disclosure is made that would imply that the Day coupons meet the previously cited claim language regarding the exclusive and preferential nature of the incentives in the present system. In other words, the coupons with increased value are available to any consumer that has ignored the first communicated offer. Day does not suggest or recommend that his system be used to acquire the quality, quantity and depth of knowledge that can only be obtained by opening the system to the buyer-driven submission of a potentially wide variety of third party purchase records relating to purchases made with many online and offline retail outlets. Accordingly, Day’s system does not enable a retailer to provide a “preferential incentive” to consumers which can be distinguished from a run-of-the-mill targeted discount available through other venues.

- Day also does not disclose the privacy or “condition precedent” requirements of the Offering steps “facilitating the offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.”

Day’s failures in remedying the Weinblatt and Goldhaber deficiencies goes to the heart of the structure, function and purpose of the present invention relative to the disparate and conflicting Goldhaber, Weinblatt and Day systems. For instance, Day is not only deficient with respect to preferential incentives, that are based on buyer-submitted purchase data, and offered by separately operating advertisers, as described in the claim language, but it’s function and structure could not support the addition of the elements for which it is deficient. Adjusting the Day system to allow for the offering of competitor preferential incentives would require that manufacturers actively participate in the poaching of their own customers by their direct competitors, because these manufacturers would have to continue distributing their products through the Day stores to provide for the continued use of their transaction information for this purpose. Few (sane) manufacturers would be willing to distribute their wares through a supermarket chain that persistently poaches its customers in favor of a direct competitor. Similarly, the in-store distribution of coupons on behalf of independent advertisers would be counterproductive, because these coupons would, by definition, entice the purchase of products not offered at the store (the store’s data would be used to incent consumers to shop elsewhere.) And, there appear to be few practical and practicable opportunities for buyer entities to submit third-party purchase records during their in-store visits.

It is hard, and counterintuitive, to think of a combination of the Goldhaber system, that operates on the Internet, and relies on the web-based participation of consumers, with an in-store supermarket system of the type proposed by Day, and practiced by many supermarkets, which distributes physical paper coupons to customers (at the checkout counter or at a kiosk) only while these customers visit the store. Not only are the environments in



which Goldhaber and Day are practiced foreign to each other, the Day system, as disclosed, would add little (if anything) to the Goldhaber system, since the procurement of data in Day or the in-store distribution of Day coupons could not be applied to Goldhaber because Goldhaber's system does not comprise visits to physical stores. Also, it does not appear to be necessary or practicable to add exclusive incentives, as defined in the claim language, to Goldhaber. For instance, and as previously discussed and also mentioned in the specification, if Goldhaber were to use answers to its questionnaires as a basis for giving highly desirable incentives to some consumers and not to others, these answers would become highly inaccurate, because consumers would exaggerate their stated non-verifiable purchase records and interests.

Thus, there is a lack of motivation to combine the teachings of Day, as deficient as they are, to Goldhaber (or Weinblatt.) The examiner cites as motivation the generic providing "differentiated competitive offers and better induce purchasing based on specific monitored behaviors." But this requires the same leap of faith that was missing with the Goldhaber—Weinblatt combination. Providing preferential incentives on behalf of certain manufacturers would inherently raise a conflict with other competitor manufacturers. Any manufacturer of a product would be less willing to sell a product through a participating Day store, if the sales information would be allowed to be used by his competitors for the purpose of aggressively poaching these customers. The present inventive system as described in the claim 1 embodiment eliminates or significantly reduces this problem by allowing consumers and other buyer entities to enable and control the provision of purchase records.

To summarize the discussion of claim 1, neither Goldhaber, nor Weinblatt, nor Day disclose the receiving step. None of these references disclose the making a decision step and none of the references disclose the offering step. In addition, no motivation to combine these references with the deficient elements has been asserted, and the motivation that has been cited to combine these three references with each other, is in our opinion insufficient to motivate the average person versed in the prior art to combine these three disparate references. Finally, none of the claim 1 synergies are disclosed or suggested in the cited prior art.

Applicant traverses the examiner's refusal to give weight to the Declarations submitted under 37 CFR 1.132. These five Declarations are from preeminent people in the

field of marketing with far greater than ordinary skill in that field. Note that one does not need to be a programmer or systems analyst to be of above ordinary skill in this field. In fact, such a requirement would disqualify the inventors of the majority of the prior art in this field. The Declarants specifically considered a claim with substantially the same claim elements, i.e., third party purchase records submitted by buyer entities, a decision based on the third party purchase records, and the offering of preferential incentives. Each of the Declarants opined that they had never seen anything like the claimed system and stated that it was not obvious to them. The fact that other references were being applied at the time does not denigrate their respective opinions that they had never seen such a system, and did not consider it to be obvious, despite their substantial experience in the industry. For instance, with respect to Examiner's assertion that she has "found" the opinion of Seth Godin "to have little value" (OA, p.3), we recall that Examiner relied on Mr. Godin's writings in a prior office action as a basis for rejecting the present invention. Mr. Godin is widely recognized as one of the world's leading thinkers and innovators in the computer and marketing arts, and he is one of the most respected and widely-read authors in these fields. He was not compensated for the provision of his extensive and detailed opinion, and has had no personal or business relationship with the inventor or the assignee of the present invention, before or since the provision of the affidavit. The affidavit was provided purely as a service to the public, and should be accorded proper respect and deference, in accordance with the MPEP and applicable statutes and case law. Applicant requests that proper weight be given to all submitted declarations as secondary evidence of non-obviousness.

**Please Note: All dependent claims are allowable because of the deficiencies of the independent claims on which they depend. We are making this assertion with respect to all dependent claims, but, to avoid repetition of this point, the discussion of dependent claims below focuses only on those deficiencies newly introduced by the addition of the claim's limiting claim language. The discussion of each of the method claims below also pertains to their respective parallel claims.**

#### **Claims 10 and 100**

No motivation to combine the element of obtaining and storing acceptance information with the *provision of third party purchase records by buyer entities* is asserted or explained by the examiner.

#### **Claims 11 and 101**

The present system is uniquely positioned to measure the purchases that the buyer entity makes with a given advertiser while responding to an incentive, and subsequent to that first response, because it continuously receives, in a preferred embodiment, a buyer entities' purchase records, which evidence such purchases. The present system therefore has a special capability to measure the "referral quality" of buyer entities, by measuring and evaluating the revenue impact to the advertiser of a new system-enabled customer acquisition. The Day system only measures in-store purchases of a particular retailer, and the addition of this element, as disclosed in Day, and in the context of the entire Day reference, does not accomplish what the present system accomplishes by comprising this element. For instance, a Day manufacturer on whose behalf a coupon is distributed in a particular retail chain would have no way of knowing what the broad effect on the purchases of the consumer recipient is, because it would have no information in regard to that consumer's purchases at other stores.

**Claims 12 and 102**

The combination of the added categorization feature with the submission of third party purchase records by buyer entities is non-obvious, and no motivation to combine these features has been offered by the Examiner.

**Claims 13 and 103**

No combination to combine the added scoring feature with the submission of third party purchase records by buyer entities has been offered by the Examiner.

**Claims 47 and 137**

No motivation to combine the elements of obtaining and storing acceptance information with the *provision of third party purchase records by buyer entities* is asserted or explained by the examiner.

**Claims 48 and 138**

The recalculation of a buyer entity score based on the receipt of acceptance information, and the recalculation of whether or not the buyer entity qualifies for an on-going incentive, is important to the present system, because it motivates the buyer entity to improve its scores by responding to offers, and earn the receipt of new offers as a result of this activity. These offers will most likely come from other advertisers in the same industry, in a preferred embodiment. The disclosure cited by the Examiner (Day col 7 l65 to col 8 l30) describes a

process that runs counter to these workings, and rewards a consumer for not previously responding to a coupon. The cited excerpt does not comprise the recalculation of scores or the requisite industry categorization. Furthermore, no motivation to combine these elements with the *provision of third party purchase records by buyer entities* is asserted by the examiner.

**Claims 49 and 139**

The OA states that Day implicitly discloses “recalculating the incentive determined in said incentive providing step by applying said recalculated score of said one of the buyer entities to the incentive function.” However, Day makes no such disclosure, implicitly or explicitly, because the application of *an incentive function that arrives at a particular result by weighing and calculating multiple scores* is not needed in Day, which discloses the increase of an offer in response to a single factor alone: whether or not the previous offer was sufficient to entice a response. As importantly, because Day does not suggest multiple reward levels (only two coupon amounts, one for early responders, and another better one for those who did not initially respond), an incentive function as disclosed in the specification of the present application is not needed. In addition, the purpose of this claim element in the present inventive system is, in part, to motivate buyer entities to participate, and no motivation to combine the elements disclosed in the dependent claims with the *provision of third party purchase records by buyer entities* is asserted by the examiner.

**Claim 51 and 141**

The OA claims that Goldhaber discloses distribution of an incentive via a plurality of distribution channels (as defined in the specification, these channels comprise web, email, voice, PDA, and interactive television). But the relevant excerpt (C21 11-19) makes no such disclosure, noting instead that various equipment can be used to access the web. But accessing the web with a television is different from receiving an interactive television (or any television) advertisement, or email. Furthermore, no motivation to combine is asserted.

**Claims 52 and 142**

No motivation to combine the added element with the submission of third party purchase records by buyer entities has been asserted. Adding web visit data as part of the Goldhaber system, in which most of the data is system generated, is different than adding it to a buyer-managed and buyer-driven profile that comprises buyer-submitted third party purchase records, and other buyer-controlled mechanisms for adding data, that are not present in Goldhaber.

**Claims 64 and 154**

This claim adds the limitation of “submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been or might have been made.” The OA cites the rating of advertisements by consumers, but rating advertisements is different from the rating of a product or service which has been previously consumed as evidenced by a buyer-submitted purchase record. Furthermore, Goldhaber does not limit the rating of advertisements to those consumers that are verified to have viewed it, or otherwise specify that these ratings should be reviewed for accuracy or relevance based on the viewing history of the consumers. Further, no motivation to combine with the submission of third party purchase records has been asserted in the OA.

**Claims 65 and 155**

Claim 65 adds the element of “weighting each entity submitted rating for a product or service item according to the money spent on the particular product or service item by the entity; and creating an average rating for the product or service item based on the weighted entity submitted ratings.” With respect to this limitation, no disclosure or motivation to combine is asserted in the OA.

**Claims 68 and 158**

Please see below for a response to the rejection of this claim.

**Independent Claims 207, 259 and 308**

As per the MPEP, and applicable laws and statutes, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. Examiner’s rejection of independent claim 207 fails to make a *prima facie* case, because the Goldhaber, Weinblatt, Day references do not disclose the submission of third

party purchase records by buyer entities. Also not disclosed are “*receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom*” and “*facilitating the offering of at least one of the incentives to the buyer entity, with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.*” See the detailed discussion of these references in relation to claim 1. The claim is therefore allowable and this rejection should be reversed.

**Dependent Claims 208, 260 and 309**

Claim 208 specifies that buyer entity purchase records must be received on the initiative and consent of buyer entities. Buyer entities must make a conscious and deliberate decision in submitting purchase record information, for instance by using one of the processes specified in paragraphs 132 to 152 of the specification, or similar processes. As previously discussed with respect to claim 1, this limitation is not disclosed in any of the three references.

**Dependent Claims 209, 261, 310 and 210, 262, 311**

Claim 209 and 210 specify that the submission of purchase records must “compris[e] data associated with the purchase of products or services for which the payment was not carried out by the system.” As previously discussed, this limitation, the requirement that the system has not completed the payment to the merchant at the time of receipt of the purchase record, or information derived therefrom, is not disclosed in any of the three references.

**Dependent Claims 211, 263, 312 and 212, 264, 313 and 213, 265, 314**

Claims 211, 212, 213 add the limitation that the advertiser must be independent in its day to day operations: “wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business”. No motivation to combine this feature with the submission of third party purchase records, which is absent from Goldhaber, has been cited.

**Dependent Claims 214, 266, 315 and 215, 267, 316 and 216, 268, 317**

Claims 214 to 217 add the limitation relating to the exclusive and discriminatory nature of the preferential incentives. This feature is not disclosed in any of the

three references as explained in the discussion of claim 1. No motivation to combine has been asserted for this claim.

**Dependent Claims 218, 270, 319 and 219, 271, 320 and 220, 272, 321 and 221, 273, 322 and 222, 274, 323**

Claims 218 to 222 specify that the decision regarding the offering of the incentive is based on the buyer entity's purchases with others: "based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive", said data having been obtained from buyer-submitted purchase records. This feature is not disclosed in any of the three references as explained in our discussion of claim 1. No motivation to combine has been asserted for this claim.

**Dependent Claims 223, 275, 324 and 224, 276, 325 and 225, 277, 326 and 226, 278, 327 and 227, 279, 328 and 228, 280, 329**

No motivation to combine has been asserted in the OA for these claims, nor has the rejection of these claims been otherwise explained in the OA.

**CLAIMS 68 AND 158 ARE REJECTED UNDER 35 USC 103(A) AS BEING UNPATENTABLE OVER GOLDHABER IN VIEW OF WEINBLATT AND DAY AND FURTHER IN VIEW OF DEDRICK, US 5717923 (hereafter referred to as Dedrick).**

The rejection of these dependent claims is respectfully traversed. These claims are allowable because of the deficiencies of the prior art relative to their respective antecedent claims, and for the additional reasons described below. In addition to the limitations in their respective independent claims, Claim 68 and parallel claim 158 add the further limitation of "of calculating a charge for providing the incentive based on both the size of a group of buyer entities resulting from a search of the stored data and the scores of the buyer entities." In combination with the other claim limitations, this feature allows the operator of the present system to charge a price that is commensurate with the potential acquisition value of the recipient as a new customer (as demonstrated by information stemming from the purchase records previously submitted by that recipient.) It builds on the system's strengths by adding an important new factor, scores derived in a preferred embodiment at least in part from buyer-submitted verifiable purchase histories, to other factors in the determination of the price charged to advertisers. Note that the provision of the incentive could be measured in different

ways, based on the offering of the incentive through one of the distribution channels, or based on a response obtained from the recipient.

In this context, the OA cites several excerpts from Goldhaber which do not disclose or suggest this limitation, and also relies on the Dedrick reference. Dedrick is a method and apparatus for dynamically customizing electronic information. Examiner cites Figure 7B and the following excerpt (col5, 120-30):

Session manager 29 transfers data and control information to and from the components of client system 12, and acts as an interface between client system 12 and metering server 14. Electronic information which is transferred to client system 12 is received by session manager 29 and forwarded to client interface 23. In one embodiment, the electronic information is forwarded to client interface 23 via content adapter 25. Content adapter 25 may then modify the electronic information, based on the end user's data stored in personal profile database 27. Session manager 29 also instructs statistic compilation process 26 to compile the aggregate data stored in personal profile database 27 when the information is requested by metering server 14.

Neither this excerpt nor Figure 7B, nor the text associated with Figure 7B, disclose the added limitation, adding a further substantial deficiency of the prior art relative to this claim.

**Claims 229, 281, 330**

This claim adds limitations relating to a forward-looking process as follows: “..determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser, receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined; automatically and electronically making a new decision associated with the offering, said new decision being based at least in part on the function, the budget limit, and the newly-submitted purchase records; distributing the incentive based at least in part on the new decision; and halting the distributing when the budget-related limit is met.”



The OA asserts that Day discloses these limitations, but Day fails to make the asserted disclosures in at least three respects:

- Day does not disclose receiving and using a budget from an advertiser. In the excerpts cited in this regard by the Examiner, a quantity limit is used to put a ceiling on the number of times a particular coupon is given to a particular consumer (col.6 lines 57-60; col.14 lines 52-56.) Note that this is a quantity limit relating to particular consumers, and not one disclosed to have been received from the advertiser. There is no advertiser *budget* limit in Day, i.e. that limits an advertiser's expenditures. Although Examiner does not cite an overall quantity limit disclosure relating to a particular advertiser or advertise campaign, it is worth noting that a budget limit is very different from such an overall quantity limit. A quantity limit could by itself not accurately define or limit the extent of an advertiser's expenditures in a variable pricing environment in which the advertiser is charged different prices for different distributed incentives, as proposed by a preferred embodiment of the present invention.
- Day does not disclose use of an incentive function. Examiner cites Day's disclosure of "targeting parameters", but these parameters are not different from search criteria normally used to select or deselect consumers as recipients of an advertisement. By contrast, an incentive function calculates a particular number based on *multiple weighted factors*, and such a result is then used for the offering of one or more incentives.
- Day does not disclose receiving third party purchase records, as defined in the claim language, nor having the system automatically react to such a purchase record submission, based on information previously set on the basis of advertiser preferences. The Day data are sales data based on transactions made on the store(s) of a particular retailer, and do not comprise buyer-submitted purchase record data.

Furthermore, no motivation to combine the limitations of claim 229 with the deficient elements of the antecedent claims is asserted in the OA.

**Claims 230, 282, 331**

These claims add limitations relating to an interactive campaign management for advertisers. Examiner cites the following excerpts in Day to claim that the claimed limitations have been disclosed: col.4, 118-31, col.14, 152-56; col.6 157-60. In fact, the added limitations are not disclosed in these excerpts, nor elsewhere in Day. Additionally, no motivation to combine has been asserted in the OA.

**Claims 231, 283, 332**

Please see below.

**Claims 232, 284, 333**

No motivation to combine the elements of obtaining and storing acceptance information with the *provision of third party purchase records by buyer entities*, or with the other deficient elements of the antecedent claims, is asserted or explained by the examiner.

**Claims 233, 285, 334.**

The present system is uniquely positioned to measure the purchases that the buyer entity makes with a given advertiser while responding to an incentive, and subsequent to that first response, because it continuously receives, in a preferred embodiment, a buyer entities' purchase records, which evidence such purchases. The present system therefore has a special capability to measure the "referral quality" of buyer entities, by measuring and evaluating the revenue impact of the advertiser. The Day system only measures in-store purchases of a particular retailer, and the addition of this element, as disclosed in Day, and in the context of the entire Day reference, does not accomplish what the present system accomplishes by comprising this element. For instance, a Day manufacturer on whose behalf a coupon is distributed in a particular retail chain would have no way of knowing what the broad effect on the purchases of the consumer recipient is, because it would have no information in regard to that consumer's purchases at other stores.

No motivation to combine the elements of obtaining and storing acceptance information with the *provision of third party purchase records by buyer entities*, or with the other deficient elements of the antecedent claims, is asserted in the OA.

**Claims 234, 286, 335**

These claims add limitations relating to the demonstrative scoring features, which allows buyer entities to view and track the amount of aggregate benefits available to them based on the various incentive offers for which they are eligible, and to see how these

benefits increase with increased user participation. Specifically, the claims add the limitations of “comprising calculating for said buyer entity at least one measure which indicates the amount of benefits available to the buyer entity based at least in part on the information stored about the buyer entity; and presenting said at least one measure to the buyer entity.” The Examiner’s Official Notice does not assert that these limitations are well known, only that “present[ing] in concrete terms the value of any offer” is well known. No disclosure of the claims limitations, or relating to the obviousness of these limitations in light of the limitations of the antecedent claims is cited, nor is it asserted that these limitations themselves are well known in the trade.

Applicant traverses the Official Notice. The invention as defined by the dependent claims’ and the antecedent claims’ limitations is not at all obvious. In accordance with MPEP 2144.03, applicant requests that each point of official notice be supported by a citation to a reference, as set forth by the MPEP Office requirements, and that a suggestion in the prior art be pointed out for a motivation to combine each of the noticed (and other claimed) elements to realize the claimed combination. In view of the fact that this is a three reference combination supplemented by resort to Official Notice for some of the elements, such proof is essential to nullify the use of applicant’s specification as a blueprint for such a combination.

**Claims 235, 287, 336**

Examiner takes Official Notice in rejecting this claim. Applicant traverses the Official Notice. The invention, as defined by the limitations of the dependent and antecedent claims, is not at all obvious. In accordance with MPEP 2144.03, applicant also requests that each point of official notice be supported by a citation to a reference, as set forth by the MPEP Office requirements, and that a suggestion in the prior art be pointed out for a motivation to combine each of the Noticed (and other claimed) elements to realize the claimed combination. In view of the fact that this is a three reference combination supplemented by resort to Official Notice for some of the elements, such proof is essential to nullify the use of applicant’s specification as a blueprint for such a combination.

**Claims 236, 288, 337**

These claims adds the limitation “receiving manual input from the buyer entity, and making said decision at least in part based on the manual input.” It is clear that the

day to day use and definition of the words “manual input” in the Computer Arts, comprises inputting data by typing on a keyboard, or clicking on (or moving) a mouse, but not feeding a purchase record into a machine, as described in Weinblatt. The referenced disclosure of the Examiner therefore has no bearing on the patentability of these claims. Neither a relevant disclosure nor a motivation to combine has been cited.

**Claims 237, 289, 338**

No motivation to combine these elements with the deficient elements of the antecedent claims has been cited by the Examiner.

**Claim 246, 298, 347**

Examiner takes Official Notice in rejecting this claim. Applicant traverses the Official Notice. The invention as defined by the limitations of the dependent and antecedent claims is not at all obvious. In accordance with MPEP 2144.03, applicant also requests that each point of official notice be supported by a citation to a reference, as set forth by the MPEP Office requirements, and that a suggestion in the prior art be pointed out for a motivation to combine each of the Noticed (and other claimed) elements to realize the claimed combination. In view of the fact that this is a three reference combination supplemented by resort to Official Notice, such proof is essential to nullify the use of applicant’s specification as a blueprint for such a combination. It is not at all obvious to combine the variable data-based pricing of providing an advertisement to a buyer entity with the submission of purchase record data by said buyer entity.

**Claims 250, 302, 351**

No specific citation in Goldhaber regarding the disclosure of the added element has been referenced, nor has any motivation to combine with the deficient elements of the respective antecedent claims been asserted in the OA.

**CLAIMS 206, 231, 252-254, 256-258, 304-306, 308-310, 353-355, 357-359 ARE REJECTED UNDER 35 USC 103(A) AS BEING UNPATENTABLE OVER GOLDHABER IN VIEW OF WEINBLATT AND DAY AND FURTHER IN VIEW OF ADMITTED PRIOR ART**

**Claim 206**

Claim 206 comprises the language of claim 1 and is therefore allowable for the same reasons. Additionally, claim 206 adds elements relating to the submission of purchase

records by buyer entities via buyer entity provision and subsequent system use of passwords and usernames and instructions relating to the retrieval of data from third party accounts: “wherein said receiving comprises automatically accessing web-based online accounts of said buyer entities using passwords and usernames of said buyer entities for gathering at least some of said information relating to said purchases made by the buyer entities, said passwords and usernames being provided on the initiative and with the consent of the buyer entities.” Examiner quotes col. 6 l.50-65; cols 13-20 and col. 8 l.40-53 to support her assertion that this additional limitation is disclosed in Goldhaber, and that the combination of that limitation as part of the Weinblatt, Day, Goldhaber construct is therefore obvious, but none of these excerpts, nor any other part of the Goldhaber reference, in fact discloses the limitation. No motivation to combine the admitted prior art with the references, or with the deficient elements of the claim, has been asserted in the OA.

In addition, claim language is added relating to the deletion of buyer entity information which is particularly important to the present invention, because it allows users to submit purchase records while still retaining control over the information emanating from them. No motivation that would have led the average person versed in the prior art to combine this feature with the submission of third party purchase records has been asserted by the Examiner. For the above stated reasons, the claim is therefore allowable, and passage to issue is respectfully requested.

#### **Claims 231, 283, 332**

This claim adds limitations regarding the same manner of buyer entity purchase record submission discussed in claim 206. For this claim, the added limitation is “receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof; automatically accessing the web-based online accounts; retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and repeating said accessing and retrieving steps unless a cancellation of said permission is received. In her response regarding this claim, Examiner states that “expressing consent by giving out passwords and usernames for a website to use one’s account information is taught by GOLDHABER.” However this is not true. None of the cited Goldhaber excerpts disclose these limitations. The teaching of consumers sharing the content of their public or private web sites, or home pages, is not relevant to the granting

of access to third party financial accounts. The average person versed in the prior art would not have been motivated to combine the above method, which is directed at a purpose unrelated to advertising or consumer self-profiling, with the Goldhaber system. No motivation to combine the above limitations with the admitted and actual deficiencies of the prior art relative to the antecedent claims is asserted by the Examiner.

**Claims 252, 304, 353**

These claims add limitations relating to providing buyer entities with the capability to augment their profiles, and to better their incentives, by allowing them to consent to the system's purchase of data from third party data brokers. The referenced Day disclosure is irrelevant to this claim limitation, and no other disclosure in the prior art, nor motivation to combine, is asserted by the Examiner.

**Claims 253, 305, 354**

Examiner takes Official Notice in rejecting this claim. Applicant traverses the Official Notice. The invention as defined by the limitations of the dependent and antecedent claims is not at all obvious. In accordance with MPEP 2144.03, applicant also requests that each point of official notice be supported by a citation to a reference, as set forth by the MPEP Office requirements, and that a suggestion in the prior art be pointed out for a motivation to combine each of the Noticed (and other claimed) elements to realize the claimed combination. In view of the fact that this is a three reference plus admitted art combination supplemented by resort to Official Notice, such proof is essential to nullify the use of applicant's specification as a blueprint for such a combination. It is not at all obvious to combine the use the present system to reward a buyer entity for being a loyal customer of a particular advertiser. Use of the present system makes the management of such a loyalty program exceptionally efficient, and cost-effective, especially for small advertisers, because these advertisers do not have to set up and administer their loyalty program in-house, and because they do not need to distribute coupons or discount cards to consumers, which many of these consumers find inconvenient, and sometimes embarrassing. The administration of the loyalty program by the system is only possible because of the receiving step, which allows the system to receive a buyer entity's purchase records, to detect qualifying purchases of participating buyer entities, and to credit the accounts of these buyer entities accordingly.

**Claims 254, 306, 355**

The OA makes no attempt to disclose most of the limitations of this claim, which allows a buyer entity to authorize the transfer of its purchase histories from multiple merchants to the system. No motivation to combine is asserted.

**Claims 256, 308, 357 and 257, 309, 358 and 258, 310 and 359**

These claims combine some or all of the previously discussed limitations of claims 229, 230 and 231, and therefore give rise to the same previously discussed deficiencies. Specifically, claim 256 combines the elements of claims 230 and 231. Claim 256 combines the elements of claims 229 and 231. Claim 258 combines the elements of claims 229, 230 and 231. No motivation to combine is asserted for any of these claims.

**8. SUMMARY**

For the foregoing reasons, it is submitted that the examiner's rejection are erroneous, and reversal of the applied rejections to all of the independent claims and the claims dependent therefrom is respectfully requested.

Respectfully submitted,

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**CLAIMS APPENDIX**

1. A method for buyer-driven targeting by a system comprising:
  - receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record;
  - electronically storing information associated with said data;
  - for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business, electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives, with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers, wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive; and
  - facilitating the offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with



said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

2-9 (Cancelled)

10. The method as defined in claim 1, further comprising:  
obtaining acceptance information on whether one of the buyer entities accepted the incentive; and  
storing the acceptance information to a database.

11. The method as defined in claim 10, further comprising: obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting the additional information to be stored.

12. The method as defined in claim 1, wherein said making or helping to make at least one decision step further comprises the categorization of purchases listed from a plurality of independent third party merchants in the purchase records or information verifiably derived therefrom based on a set of categories.

13. The method as defined in claim 12, further comprising:  
calculating or facilitating the calculation of a separate score for one of the buyer entities in at least one of the categories based on purchase data associated with purchases by the buyer entity in each of the respective categories.

14-46 (Cancelled)

47. The method as defined in claim 13, further comprising:  
receiving additional information on whether one of the buyer entities accepted the incentive; and  
recalculating at least one of the scores for one of the buyer entities based on the additional information.

48. The method as defined in claim 47, further comprising: determining if the recalculated score qualifies said one of the buyer entities for an on-going incentive.
49. The method as defined in claim 47, further comprising:  
recalculating the incentive by applying said recalculated score of said one of the buyer entities to an incentive function or algorithm.
50. (Cancelled)
51. The method as defined in claim 1, wherein the plurality of incentives are provided across a plurality of distribution channels.
52. The method as defined in claim 13, comprising:  
receiving additional information that one of the buyer entities visited a predetermined web site; and recalculating one of the scores of said one of the buyer entities to increase the score based on additional information.
- 53-63. (Cancelled)
64. The method as defined in claim 1, further comprising:  
submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been or might have been made.
65. The method as defined in claim 64, further comprising:  
weighting each entity submitted rating for a product or service item according to the money spent on the particular product or service item by the entity; and  
creating an average rating for the product or service item based on the weighted entity submitted ratings.
- 66-67 (Cancelled)

68. The method as defined in claim 13, further comprising the step of calculating a charge for providing the incentive based on both the size of a group of buyer entities resulting from a search of the stored data and the scores of the buyer entities.

69-93 (Cancelled)

94. A system for buyer-driven targeting comprising:

an electronic storage; and

a set of processors that use the electronic storage and include among them the following logic elements

a first component for receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record;

a second electronic component for storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business, a third electronic component for making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives, with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers, wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said decision

regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the data relating to a purchase made by said buyer entity with a merchant other than the third party advertiser that is associated with the incentive; and

a fourth component for offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

95-99 (Cancelled)

100. The system as defined in claim 94, further comprising  
a component for obtaining acceptance information on whether one of the buyer entities accepted the incentive; and  
a component for storing the acceptance information to a database.

101. The system as defined in claim 100, further comprising a component for obtaining additional information on whether the buyer entity made a follow-up purchase or a co-purchase contemporaneous with or after accepting the incentive and inputting the additional information to be stored.

102. The system as defined in claim 94, wherein said second component for making or helping make a decision step further comprises a component for categorizing purchases listed from a plurality of independent third party merchants in the proof of purchase records based on a set of categories.

103. The system as defined in claim 102, further comprising a component for calculating at least one score for a buyer entity based on the amount purchased in one or more selected categories.

104-136 (Cancelled)

137. The system as defined in claim 103, further comprising:  
a component for receiving information on whether one of the buyer entities accepted the incentive; and  
a component for recalculating at least one of the scores for one of the buyer entities based on the buyer entity accepting the incentive.
138. The system as defined in claim 137, further comprising: a component for determining if the recalculated score qualifies said one of the buyer entities for an on-going incentive.
139. The system as defined in claim 137, further comprising: a component for recalculating the incentive determined in said offering or facilitating the offering component by applying said recalculated score of said one of the buyer entities to an incentive function.
140. (Cancelled)
141. The system as defined in claim ~~137~~ 94, wherein the system provides the plurality of incentives across a plurality of distribution channels.
142. The system as defined in claim 103, comprising: a component for receiving information that one of the buyer entities visited a predetermined web site; and recalculating one of the scores of said one of the buyer entities to increase the score based on this visit.
- 143-153 (Cancelled)
154. The system as defined in claim 94, further comprising a component for submitting a request to one of said buyer entities to provide a rating of a product or service only if the purchase record of the buyer entity shows a purchase of the product or service to be rated.
155. The system as defined in claim 154, further comprising:  
a component for weighting each entity submitted rating for a product or service according to the money spent on the particular product or service by the entity; and  
a component for creating an average rating for the product or service based on the weighted entity submitted ratings.
156. (Cancelled)

157. (Cancelled)

158. The system as defined in claim 103, further comprising a component for calculating a charge for providing the incentive based on both the size of a group of buyer entities resulting from a search of the stored data and the scores of the buyer entities.

159-203 (Cancelled)

204. A program product for buyer-driven targeting by a system comprising:

a set of computer usable media having computer readable program code embodied therein to be executed by a computer, the computer readable program code comprising program code to perform the following method:

receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record;

electronically storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and

wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business, electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives, with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers, wherein there is at least one different preferential incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the

same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the incentive; and

offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

205. (Cancelled)

206. A method for buyer-driven targeting by a system comprising:

receiving from each of a plurality of buyer entities at least one respective third party purchase record or information derived therefrom, said purchase record or information derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system, wherein the receipt of the third party purchase record or information derived therefrom occurs on the initiative and with the consent of the buyer entity associated with that purchase record;

electronically storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution, point of sale payment or provision of the product or service is not carried out by the system in the ordinary course of business, electronically making with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential incentives, with each incentive associated with at least one of said product or service items and associated with at least one of the third party advertisers, wherein there is at least one different preferential incentive from each of a plurality of the

different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored information associated with the\_data relating to a purchase\_made by said buyer entity with a merchant\_other than the third party advertiser that is associated with the incentive; and

offering of at least one of said preferential incentives to said buyer entity, without having transferred to said third party advertiser any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom;

wherein said receiving comprises automatically accessing web-based online accounts of said buyer entities using passwords and usernames of said buyer entities for gathering at least some of said information relating to said purchases made by the buyer entities, said passwords and usernames being provided on the initiative and with the consent of the buyer entities; and

wherein access is provided to at least one of the buyer entities to individual items of information in a profile associated with that buyer entity with an option to delete said individual item of information.

207. A method for buyer-driven targeting by a system comprising:

receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom;

electronically storing information associated with the data;

for a plurality of product or service items offered for sale, wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, electronically making



with respect to at least one of the buyer entities, based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives, with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers, wherein there is at least one different incentive from each of a plurality of the different third party advertisers, each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items; and

facilitating the offering of at least one of the incentives to the buyer entity, with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

208. The method as recited in claim 207, wherein the receipt of the third party purchase record or information derived therefrom occurs on an initiative and with consent of the buyer entity associated with that purchase record.

209. The method as recited in claim 207, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

210. The method as recited in claim 208, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

211. The method as recited in claim 207, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

212. The method as recited in claim 208, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

213. The method as recited in claim 209, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

214. The method as recited in claim 207, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

215. The method as recited in claim 208, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

216. The method as recited in claim 209, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

217. The method as recited in claim 211, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

218. The method as recited in claim 207, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

219. The method as recited in claim 208, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

220. The method as recited in claim 209, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

221. The method as recited in claim 211, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

222. The method as recited in claim 214, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to purchases made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

223. The method as recited in claim 207, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

224. The method as recited in claim 208, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

225. The method as recited in claim 209, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

226. The method as recited in claim 211, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

227. The method as recited in claim 214, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

228. The method as recited in claim 218, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

229. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein the making further includes executing a forward-looking process, the forward-looking process including:

- determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser,

- receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

- automatically and electronically making a new decision associated with the offering, said new decision being based at least in part on the function, the budget limit, and the newly-submitted purchase records;

- distributing the incentive based at least in part on the new decision; and

- halting the distributing when the budget-related limit is met.

230. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information.

231. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving steps unless a cancellation of said permission is received.

232. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

obtaining acceptance information on whether at least one of the buyer entities accepted the incentive;

storing the acceptance information; and

making a decision to offer a further incentive to said at least one of the buyer entities based at least in part on said acceptance information, said decision being in the economic interest of said at least one of the buyer entities.

233. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising: obtaining multiplier-effect-information on said buyer entity, said information being associated with at least one follow-up purchase or at least one contemporaneous co-purchase which the buyer entity made with or after accepting the incentive;

storing the acceptance information; and

making a decision to offer a further incentive to the buyer entities based at least in part on said multiplier-effect-information, said decision being in the economic interest of the buyer entity.

234. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising calculating for said buyer entity at least one measure which indicates the amount of benefits available to the buyer entity based at least in part on the information stored about the buyer entity; and

presenting said at least one measure to the buyer entity.

235. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, where said incentive is presented to the buyer entity on a wireless device, and where said decision is made at least in part based on location information associated with the location of the wireless device.

236. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising receiving manual input from the buyer entity, and making said decision at least in part based on the manual input.

237. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising receiving browsing-behavior information associated with the buyer entity, and making said decision at least in part based on the browsing-behavior information.

238. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising receiving demographic information associated with the buyer entity, and making said decision at least in part based on the demographic information.

239. (Withdrawn) The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, where said incentive is distributed to the buyer entity via interactive television.

240. (Withdrawn) The method as defined in claim 239, wherein said decision pertains to the eligibility of the buyer entity for said incentive, and wherein said decision is made based on information stored about the buyer entity.

241. (Withdrawn) The method as defined in claim 239, wherein said decision pertains to the amount of said incentive, and wherein said decision is made based on information stored about the buyer entity.

242. (Withdrawn) The method as defined in claim 239, wherein said decision pertains to the distribution priority of said incentive, and wherein said decision is made based on information stored about the buyer entity.

243. (Withdrawn) The method as defined in claim 239, comprising receiving response input from the buyer entity, and wherein said decision is at least partly based on said response input.

244. (Withdrawn) The method as defined in claim 239, comprising correlating purchase information associated with said buyer entity with advertisement viewing information, and wherein said decision is partly based on said correlation.

245. (Withdrawn) The method as defined in claim 239, comprising receiving viewing information from the buyer entity, and wherein said decision is at least partly based on said viewing information.

246. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising calculating a price for the offering of an incentive to the buyer entity based at least in part on information stored about the buyer entity.

246. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising calculating a price for the offering of an incentive to the buyer entity based at least in part on information stored about the buyer entity.

247. (Withdrawn) The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:  
submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made.

248. (Withdrawn) The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

for a plurality of said buyer entities, submitting a request to each rating buyer entity to provide a rating of a product or service item, in each instance only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made by the rating buyer entity;

receiving ratings from at two of said plurality of said buyer entities;

providing for the weighting each of said ratings based at least in part on at least one of: the amount of money spent on the product or service item which is being rated by the respective rating buyer entity; the frequency of the purchases of said product made by the respective rating buyer entity; other information associated with the past purchases of the respective rating buyer entity; and

creating an average rating for the product or service item based at least in part on: the ratings and the weighting of the ratings.

249. (Withdrawn) A method for buyer-driven targeting comprising:

electronically receiving interactive television viewing information associated with the buyer entity;

offering to the buyer entity an incentive for rating a television program only if said viewing information shows that said program was displayed by the interactive television of the buyer entity; and

electronically receiving said rating.

250. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising: sending information associated with the data of at least one particular of said buyer entities to a third party after receipt of an authorization from said at least one particular buyer entity.

251. (Withdrawn) The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

weighting questions based at least in part on data associated with at least one questioned-buyer-entity of said buyer entities;

selecting at least one question, based, at least in part, on the weight thereof;



electronically presenting the at least one question to the at least one questioned-buyer-entity;  
receiving response-input from the at least one questioned buyer entity;  
storing response-input-data associated with the response-input and  
making a response-input-informed-decision associated with a further communication with said buyer entity based on the response-input.

252. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

obtaining enhancement permission from at least one enhanced buyer entity of said plurality of buyer entities to supplement data associated with said enhanced buyer entity with additional information to be obtained from at least one third party information broker; and receiving additional information associated with the at least one enhanced buyer entity from at least one actual third party information broker; and wherein the incentive in the facilitating the offering of the incentive step is offered to the enhanced buyer entity on improved terms based at least in part on the additional information.

253. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

adding the purchase amounts for the buyer entity over a first period of time made from a first merchant to obtain a first merchant purchase amount; determining if the first merchant purchase amount exceeds a threshold value; and  
rewarding the buyer entity for having exceeded the threshold value of purchases.

254. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein the receiving step comprises:

sending to a buyer entity an offer for participating in an incentive program in return for access to purchase information pertaining to the buyer entity from at least three merchants;

receiving from the buyer entity a response with a digital identity verification granting a right of access to said purchase information of the merchants; and

obtaining said purchase information from the merchants;  
wherein said making a decision step comprises:  
electronically searching the purchase information to obtain at least one attribute from the purchase information about the buyer entity; and  
correlating the attribute to an incentive from a plurality of incentives.

255. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information; and

wherein the making further includes executing a forward-looking process, the forward-looking process including:

determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser;

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the making of an incentive offer, said decision being based at least in part on the function, budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the revised making; and

halting the distributing when the budget-related limit is met.

256. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving steps unless a cancellation of said permission is received;

wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information.

257. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving steps unless a cancellation of said permission is received;

wherein the making further includes executing a forward-looking process, the forward-looking process including:

determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser,

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the making of an incentive offer, said decision being based at least in part on the function, budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the revised making; and

halting the distributing when the budget-related limit is met.

258. The method as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving steps unless a cancellation of said permission is received;

wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information;

wherein the making further includes executing a forward-looking process, the forward-looking process including:

determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser,

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the making of an incentive offer, said new decision being based at least in part on the function, budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the revised making; and

halting the distributing when the budget-related limit is met.

259. A computer program product for buyer-driven targeting by a system comprising:  
a set of computer usable media having computer readable program code embodied therein to be executed by a computer, the computer readable program code comprising program code to perform the following method:

receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom;

electronically storing information associated with the data;

with respect to a plurality of product or service items offered for sale, wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, electronically making with respect to at least one of the buyer entities, based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives, with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers, wherein there is at least one different incentive from each of a plurality of the different third party advertisers, each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items; and

facilitating the offering of at least one of the incentives to the buyer entity, with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

260. The computer program product as recited in claim 259, wherein the receipt of the third party purchase record or information derived therefrom occurs on an initiative and with consent of the buyer entity associated with that purchase record.

261. The computer program product as recited in claim 259, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

262. The computer program product as recited in claim 260, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

263. The computer program product as recited in claim 259, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

264. The computer program product as recited in claim 260, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

265. The computer program product as recited in claim 261, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

266. The computer program product as recited in claim 259, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

267. The computer program product as recited in claim 260, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

268. The computer program product as recited in claim 261, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

269. The computer program product as recited in claim 263, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

270. The computer program product as recited in claim 259, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

271. The computer program product as recited in claim 260, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

272. The computer program product as recited in claim 261, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

273. The computer program product as recited in claim 263, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

274. The computer program product as recited in claim 266, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to purchases made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

275. The computer program product as recited in claim 259, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated

with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

276. The computer program product as recited in claim 260, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

277. The computer program product as recited in claim 261, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

278. The computer program product as recited in claim 263, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

279. The computer program product as recited in claim 266, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

280. The computer program product as recited in claim 271, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

281. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, wherein the making further includes executing a forward-looking process, the forward-looking process including:



determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser,

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the offering, said new decision being based at least in part on the function, the budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the new decision; and

halting the distributing when the budget-related limit is met.

282. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information.

283. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving unless a cancellation of said permission is received.

284. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

computer code for obtaining acceptance information on whether at least one of the buyer entities accepted the incentive;

computer code for storing the acceptance information; and

computer code for making a decision to offer a further incentive to said at least one of the buyer entities based at least in part on said acceptance information, said decision being in the economic interest of said at least one of the buyer entities.

285 The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

computer code for obtaining multiplier-effect-information on said buyer entity, said information being associated with at least one follow-up purchase or at least one contemporaneous co-purchase which the buyer entity made with or after accepting the incentive;

computer code for storing the acceptance information; and

computer code for making a decision to offer a further incentive to the buyer entities based at least in part on said multiplier-effect-information, said decision being in the economic interest of the buyer entity.

286. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

computer code for calculating for said buyer entity at least one measure which indicates the amount of benefits available to the buyer entity based at least in part on the information stored about the buyer entity; and

computer code for presenting said at least one measure to the buyer entity.

287. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, where said

incentive is presented to the buyer entity on a wireless device, and where said decision is made at least in part based on location information associated with the location of the wireless device.

288. The computer program product as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising computer code for receiving manual input from the buyer entity, and making said decision at least in part based on the manual input.

289. The computer program product as recited in claim 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising computer code for receiving browsing-behavior information associated with the buyer entity, and making said decision at least in part based on the browsing-behavior information.

290. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising computer code for receiving demographic information associated with the buyer entity, and making said decision at least in part based on the demographic information.

291. (Withdrawn) The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, where said incentive is distributed to the buyer entity via interactive television.

292. (Withdrawn) The computer program product as defined in claim 239, wherein said decision pertains to the eligibility of the buyer entity for said incentive, and wherein said decision is made based on information stored about the buyer entity.

293. (Withdrawn) The computer program product as defined in claim 239, wherein said decision pertains to the amount of said incentive, and wherein said decision is made based on information stored about the buyer entity.

294. (Withdrawn) The computer program product as defined in claim 239, wherein said decision pertains to the distribution priority of said incentive, and wherein said decision is made based on information stored about the buyer entity.

295. (Withdrawn) The computer program product as defined in claim 239, comprising computer code for receiving response input from the buyer entity, and wherein said decision is at least partly based on said response input.

296. (Withdrawn) The computer program product as defined in claim 239, comprising computer code for correlating purchase information associated with said buyer entity with advertisement viewing information, and wherein said decision is partly based on said correlation.

297. (Withdrawn) The computer program product as defined in claim 239, comprising computer code for receiving viewing information from the buyer entity, and wherein said decision is at least partly based on said viewing information.

298. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising computer code for calculating a price for the offering of an incentive to the buyer entity based at least in part on information stored about the buyer entity.

299. (Withdrawn) The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising computer code for submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made.

300. (Withdrawn) The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

computer code for, with respect to a plurality of said buyer entities, submitting a request to each rating buyer entity to provide a rating of a product or service item, in each instance only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made by the rating buyer entity;

computer code for receiving ratings from at two of said plurality of said buyer entities;

computer code for providing for the weighting each of said ratings based at least in part on at least one of: the amount of money spent on the product or service item which is being rated by the respective rating buyer entity; the frequency of the purchases of said product made by the respective rating buyer entity; other information associated with the past purchases of the respective rating buyer entity; and

computer code for creating an average rating for the product or service item based at least in part on: the ratings and the weighting of the ratings.

301. (Withdrawn) A computer program product for buyer-driven targeting comprising a set of computer usable media having computer readable program code embodied therein to be executed by a computer, the computer readable program code comprising program code to perform the following method:

electronically receiving interactive television viewing information associated with the buyer entity;

offering to the buyer entity an incentive for rating a television program only if said viewing information shows that said program was displayed by the interactive television of the buyer entity; and

electronically receiving said rating.

302. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising computer code for sending information associated with the data of at least one particular of said buyer entities to a third party after receipt of an authorization from said at least one particular buyer entity.

303. (Withdrawn) The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

- computer code for weighting questions based at least in part on data associated with at least one questioned-buyer-entity of said buyer entities;

- computer code for selecting at least one question, based, at least in part, on the weight thereof;

- computer code for electronically presenting the at least one question to the at least one questioned-buyer-entity;

- computer code for receiving response-input from the at least one questioned buyer entity;

  - computer code for storing response-input-data associated with the response-input and

  - computer code for making a response-input-informed-decision associated with a further communication with said buyer entity based on the response-input.

304. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising: computer code for obtaining enhancement permission from at least one enhanced buyer entity of said plurality of buyer entities to supplement data associated with said enhanced buyer entity with additional information to be obtained from at least one third party information broker; and computer code for receiving additional information associated with the at least one enhanced buyer entity from at least one actual third party information broker; and wherein the incentive in the facilitating the offering of the incentive is offered to the enhanced buyer entity on improved terms based at least in part on the additional information.

305. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, further comprising:

- computer code for adding the purchase amounts for the buyer entity over a first period of time made from a first merchant to obtain a first merchant purchase amount; determining if the first merchant purchase amount exceeds a threshold value; and

computer code for rewarding the buyer entity for having exceeded the threshold value of purchases.

306. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, wherein the receiving comprises:

- sending to a buyer entity an offer for participating in an incentive program in return for access to purchase information pertaining to the buyer entity from at least three merchants;

- receiving from the buyer entity a response with a digital identity verification granting a right of access to said purchase information of the merchants; and

- obtaining said purchase information from the merchants;

- wherein said making a decision comprises:

- electronically searching the purchase information to obtain at least one attribute from the purchase information about the buyer entity; and

- correlating the attribute to an incentive from a plurality of incentives.

307. The computer program product as recited in claim 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279 or 280, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information; and

- wherein the making further includes executing a forward-looking process, the forward-looking process including:

- determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser;

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the making of an incentive offer, said decision being based at least in part on the function, budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the revised making; and  
halting the distributing when the budget-related limit is met.

308. A system for buyer-driven targeting by a system comprising:

an electronic storage; and

a set of processors that use the electronic storage and include among them the following logic elements

logic for receiving data from each of a plurality of buyer entities comprising at least one respective third party purchase record or information derived therefrom;

logic for electronically storing information associated with the data;

logic for, with respect to a plurality of product or service items offered for sale, wherein each different item in the plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, electronically making with respect to at least one of the buyer entities, based at least in part on the data, at least one decision associated with the offering of at least one from among a plurality of different incentives, with each incentive associated with at least one of the product or service items and associated with at least one of the third party advertisers, wherein there is at least one different incentive from each of a plurality of the different third party advertisers, each of the incentives offering at least one benefit in exchange for at least one action associated with a purchase of at least one of the items; and

logic for facilitating the offering of at least one of the incentives to the buyer entity, with the condition precedent for this operation that the system has received from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.



309. The system as recited in claim 308, wherein the receipt of the third party purchase record or information derived therefrom occurs on an initiative and with consent of the buyer entity associated with that purchase record.

310. The system as recited in claim 308, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

311. The system as recited in claim 309, wherein the purchase record or information derived therefrom comprises data associated with the purchase of products or services for which payment was not carried out by the system.

312. The system as recited in claim 308, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

313. The system as recited in claim 309, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

314. The system as recited in claim 310, wherein the manufacture, marketing, distribution, and providing are not carried out by the system in the ordinary course of business.

315. The system as recited in claim 308, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

316. The system as recited in claim 309, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

317. The system as recited in claim 310, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic

region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

318. The system as recited in claim 312, wherein the at least one benefit is not normally and publicly accessible to the buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from the at least one action.

319. The system as recited in claim 308, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

320. The system as recited in claim 309, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

321. The system as recited in claim 310, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

322. The system as recited in claim 312, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to at least one purchase made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

323. The system as recited in claim 314, wherein the decision regarding the at least one incentive that is to be offered to the buyer entity is based at least in part on stored data relating to purchases made by the buyer entity with merchants other than the third party advertiser that is associated with the incentive.

324. The system as recited in claim 308, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

325. The system as recited in claim 309, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

326. The system as recited in claim 310, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

327. The system as recited in claim 312, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

328. The system as recited in claim 315, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

329. The system as recited in claim 320, wherein the offering is facilitated without having transferred to the third party advertiser any full name associated with the buyer entity at the time that the incentive is offered but has not yet been responded to by the buyer entity.

330. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, wherein the making further includes executing a forward-looking process, the forward-looking process including:

determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser, receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the offering, said new decision being based at least in part on the function, the budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the new decision; and

halting the distributing when the budget-related limit is met.

331. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information.

332. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, wherein said receiving includes:

receiving the permission of at least one of the buyer entities to access at least some of web-based online accounts thereof;

automatically accessing the web-based online accounts;

retrieving at least some of said information relating to said purchases made by said at least one of the buyer entities; and

repeating said accessing and retrieving unless a cancellation of said permission is received.

333. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for obtaining acceptance information on whether at least one of the buyer entities accepted the incentive;

logic for storing the acceptance information; and

logic for making a decision to offer a further incentive to said at least one of the buyer entities based at least in part on said acceptance information, said decision being in the economic interest of said at least one of the buyer entities.

334. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for obtaining multiplier-effect-information on said buyer entity, said information being associated with at least one follow-up purchase or at least one contemporaneous co-purchase which the buyer entity made with or after accepting the incentive;

logic for storing the acceptance information; and

logic for making a decision to offer a further incentive to the buyer entities based at least in part on said multiplier-effect-information, said decision being in the economic interest of the buyer entity.

335. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for calculating for said buyer entity at least one measure which indicates the amount of benefits available to the buyer entity based at least in part on the information stored about the buyer entity; and

logic for presenting said at least one measure to the buyer entity.

336. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, where said incentive is presented to the buyer entity on a wireless device, and where said decision is made at least in part based on location information associated with the location of the wireless device.

337. The system as recited in claim, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329 further comprising logic for receiving manual input from the buyer entity, and making said decision at least in part based on the manual input.

338. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329 further comprising logic for receiving browsing-behavior information associated with the buyer entity, and making said decision at least in part based on the browsing-behavior information.

339. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising logic for receiving demographic information associated with the buyer entity, and making said decision at least in part based on the demographic information.

340. (Withdrawn) The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 218, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, where said incentive is distributed to the buyer entity via interactive television.

341. (Withdrawn) The system as defined in claim 239, wherein said decision pertains to the eligibility of the buyer entity for said incentive, and wherein said decision is made based on information stored about the buyer entity.

342. (Withdrawn) The system as defined in claim 239, wherein said decision pertains to the amount of said incentive, and wherein said decision is made based on information stored about the buyer entity.

343. (Withdrawn) The system as defined in claim 239, wherein said decision pertains to the distribution priority of said incentive, and wherein said decision is made based on information stored about the buyer entity.

344. (Withdrawn) The system as defined in claim 239, comprising logic for receiving response input from the buyer entity, and wherein said decision is at least partly based on said response input.

345. (Withdrawn) The system as defined in claim 239, comprising logic for correlating purchase information associated with said buyer entity with advertisement viewing information, and wherein said decision is partly based on said correlation.

346. (Withdrawn) The system as defined in claim 239, comprising logic for receiving viewing information from the buyer entity, and wherein said decision is at least partly based on said viewing information.

347. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising logic for calculating a price for the offering of an incentive to the buyer entity based at least in part on information stored about the buyer entity.

348. (Withdrawn) The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 218, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising logic for submitting a request to one of said buyer entities to provide a rating of a product or service item only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made.

349. (Withdrawn) The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 218, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for, with respect to a plurality of said buyer entities, submitting a request to each rating buyer entity to provide a rating of a product or service item, in each instance only if the purchase record or the information verifiably derived therefrom indicates that a purchase of the product or service item to be rated has been made by the rating buyer entity;

logic for receiving ratings from at two of said plurality of said buyer entities;

logic for providing for the weighting each of said ratings based at least in part on at least one of: the amount of money spent on the product or service item which is being rated by the respective rating buyer entity; the frequency of the purchases of said product made by the respective rating buyer entity; other information associated with the past purchases of the respective rating buyer entity; and

logic for creating an average rating for the product or service item based at least in part on: the ratings and the weighting of the ratings.

350. (Withdrawn) A system for buyer-driven targeting comprising:  
an electronic storage; and

a set of processors that use the electronic storage and include among them the following logic elements

logic for electronically receiving interactive television viewing information associated with the buyer entity;

logic for offering to the buyer entity an incentive for rating a television program only if said viewing information shows that said program was displayed by the interactive television of the buyer entity; and

logic for electronically receiving said rating.

351. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising logic for sending information associated with the data of at least one particular of said buyer entities to a third party after receipt of an authorization from said at least one particular buyer entity.

352. (Withdrawn) The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 218, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for weighting questions based at least in part on data associated with at least one questioned-buyer-entity of said buyer entities;

logic for selecting at least one question, based, at least in part, on the weight thereof;

logic for electronically presenting the at least one question to the at least one questioned-buyer-entity;

logic for receiving response-input from the at least one questioned buyer entity;

logic for storing response-input-data associated with the response-input and

logic for making a response-input-informed-decision associated with a further communication with said buyer entity based on the response-input.

353. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising: logic for obtaining enhancement permission from at least one enhanced buyer entity of said plurality of buyer entities to supplement data associated with said enhanced buyer entity with additional information to be obtained from at least one third party information broker; and logic for receiving additional information associated with the at least one enhanced buyer entity from



at least one actual third party information broker; and wherein the incentive in the facilitating the offering of the incentive is offered to the enhanced buyer entity on improved terms based at least in part on the additional information.

354. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, further comprising:

logic for adding the purchase amounts for the buyer entity over a first period of time made from a first merchant to obtain a first merchant purchase amount; determining if the first merchant purchase amount exceeds a threshold value; and

logic for rewarding the buyer entity for having exceeded the threshold value of purchases.

355. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, wherein the receiving comprises:

sending to a buyer entity an offer for participating in an incentive program in return for access to purchase information pertaining to the buyer entity from at least three merchants;

receiving from the buyer entity a response with a digital identity verification granting a right of access to said purchase information of the merchants; and

obtaining said purchase information from the merchants;

wherein said making a decision comprises:

electronically searching the purchase information to obtain at least one attribute from the purchase information about the buyer entity; and

correlating the attribute to an incentive from a plurality of incentives.

356. The system as recited in claim 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328 or 329, wherein the making at least one decision further includes providing access to potential-audience-information containing at least part of the data or information derived from the data to at least one of the third party advertisers via an interactive user interface, receiving audience and incentive-definition-information from the at least one of the third party advertisers, selecting output-information derived at least in part from the potential-audience-information and the audience and

incentive-definition-information, presenting the output-information to the at least one of the third party advertisers, receiving parameter information from the at least one of the third party advertisers, and making the at least one decision at least in part based on the parameter information; and

wherein the making further includes executing a forward-looking process, the forward-looking process including:

determining a function and budget-related limit associated with at least one of the incentives based in part on information received from a forward-participating-advertiser;

receiving newly-submitted purchase records of the buyer entities with the condition precedent that the function and budget-related limit has been determined;

automatically and electronically making a new decision associated with the making of an incentive offer, said decision being based at least in part on the function, budget limit, and the newly-submitted purchase records;

distributing the incentive based at least in part on the revised making; and

halting the distributing when the budget-related limit is met.

357. The method as recited in claim 1, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227 or 228, further comprising:

receiving permission from said at least one buyer entity to send a threshold-contingent incentive by email, said permission being contingent on said threshold-contingent incentive meeting a threshold value;

and wherein said making includes:

determining a value of a particular incentive, and

making a decision in favor of sending said particular incentive to said buyer entity if and only if said incentive meets said threshold.

**EVIDENCE APPENDIX**

1. Declaration Under 37 C.F.R. §1.132 by Charles H. Berman.
2. Declaration Under 37 C.F.R. §1.132 by Peter Hartsook
3. Declaration Under 37 C.F.R. §1.132 by Rajiv Lal
4. Declaration Under 37 C.F.R. §1.132 by John Anthony Deighton
5. Declaration Under 37 C.F.R. §1.132 by Seth Godin

**RELATED PROCEEDINGS APPENDIX**

None.



Atty. Dkt. No. 084561-0108

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark LANDESMANN  
Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES  
Appl. No.: 09/888,439  
Filing Date: 06/26/2001  
Examiner: Khanh H. Le  
Art Unit: 2100

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231

Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Chaz Berman, a citizen of the United States, residing at POB 150921, San Rafael, California 94901, declare and state that:

1. I graduated from Case Western Reserve University in Cleveland, Ohio with a BA in Sociology and obtained an MSBA from San Francisco State University, in San Francisco, California with a focus in Marketing in 1980.

2. I have 25 years of marketing industry experience in the U.S. working in high level positions in a number of companies.

3. I am currently with Stockton Funds, San Francisco, CA, focusing on marketing issues and market risk relative to business opportunities.

4. I held the positions of Chief Operating Officer, Executive Vice President of Sales & Client Resources, Executive Vice President of Sales, Senior Vice President of Sales, Director of Business Development, and Director of Consumer Marketing for MyPoints.com, Inc. of San Francisco at various times during the period from February 1998-December 2000. MyPoints which merged with Cybergold in the summer of 2000

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was at the time of my tenure widely considered to be the leading web-based incentives company with approximate revenues of \$66 million.

5. I held the position of Chief Executive Officer and President of Goodstuffs from 1994-1997. Goodstuffs (revenues \$1.5 million during tenure) focused on the marketing of gourmet food and wine via direct mail and telemarketing.

6. I held the position of President of Footprint Marketing, Atlanta, Georgia, from 1995-1996. Footprint Marketing focused on marketing related to the 1996 Summer Olympics.

7. I held the position of CEO and President of WineWrights, Rohnert Park, CA from 1988-1994 and grew the company from an idea to \$4.5 million in revenue using a specific two-step sales process. WineWrights focused on allowing individuals to obtain rare California boutique wines.

8. I held the position of Executive Vice President of Marketing and Sales for Willitts Designs, Petaluma, Ca. From 1980-1987, and grew the company from \$1.5 to \$32 million in revenue. I was responsible for 200 direct sales representatives, 3 area managers, and an aggressive telemarketing program with 12 employees. Willitts focused on designing and distributing gift products internationally.

9. I declare that I have read and understood the specification and drawings for application serial number 09/888,439 filed on June 26, 2001, titled "BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES" and have read and understood claim 1, set out below.

10. Reviewed Claim 1.

1. (Amended) A method for buyer-driven targeting by a system comprising:

receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived there from, said purchase record or information verifiably derived there from comprising data associated with the purchase of products or services for which the payment was not carried out by the system;

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storing information associated with said data;

for a plurality of product or service items offered for sale, wherein different items in said plurality of items are either manufactured or marketed or distributed or provided by different third party advertisers in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with one of the third party advertisers, wherein there is at least one different preferential contingent incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, each item associated with at least one of said third party advertisers, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity from merchants other than the third party advertiser that is associated with the incentive; and

offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received directly or indirectly from that buyer entity the at least one respective third party purchase record or information verifiably derived there from.

11. I declare, based on my 25 years of experience in the direct marketing consumer products and services industry and my knowledge of loyalty and privacy issues, that the invention defined in claim 1 is novel and non-obvious in view of the

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prior art references cited above and also in view of my knowledge of the art. I base this conclusion on the following:

12. The invention of claim 1 defines a method for creating a working forum or marketplace, which merchants and other advertisers may use to acquire potentially valuable buyer entities as new customers or to significantly improve their relationships with existing customers. At the same time, this working forum provides a way for buyer entities to be motivated to self-profile in an anonymous way in order to get better deals from advertisers.

13. THE PROBLEM: I believe that the following accurately states some of the problems involved. It is widely known that a relatively small number of buyers account for the lions share of the revenues and profits of most companies. As stated above, it is therefore crucial for an advertiser to direct his customer acquisition efforts at those buyer entities that are potentially the most valuable customers. However, the prior art provides advertisers with few ways of identifying prospective new customers with verifiably attractive purchase histories (or those who have the potential of becoming much better customers based on their purchases with competing companies), nor does it offer an effective method of communicating with such prospects without having identified them by name. I know of no way for a retailer to send bull's-eye communications to such prospective new customers, based on their verified previous purchases at other retail stores. Marketing communications which are sent on the basis of a competently done analysis of a profile which consists of a substantial part of the purchase history of a buyer, would motivate that buyer to respond and to continue to respond to such communications in part because the buyer, presuming that s/he understands and cooperates with the creation of such a profile, might well expect these communications to be highly relevant and to contain particularly lucrative offers.

Importantly, an advertiser can generally not obtain reliable and relevant purchase information from competing sellers, because these merchants will not want to make their customer lists available to their immediate competitors. Similarly, a retailer will likely refuse payments made with the card of a credit card company which forwards that retailer's transaction data to competitors. Furthermore, merchants can generally not sell the individually identifiable information of consumers without obtaining the

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permission of those consumers (or informing those consumers of their practices in this regard, and allowing those consumers to opt-out). This is because of privacy laws, such as the Gramm-Leach-Bliley Act, and public pressure. From the consumer standpoint, I believe most consumers will only rarely let a company – even one that they trust – resell their personal transaction data, because they do not know nor can they control how their information is used by the party or parties to whom their data is sold. Furthermore and importantly, no single seller can provide a comprehensive profile about a particular buyer entity because that seller generally only possesses a fraction of that buyer entity's purchase history – records of the transaction that the buyer entity made with that seller.

From the advertiser's standpoint, it is as difficult to obtain reliable and relevant purchase information directly from buyer entities as it is to obtain such information from sellers. The advertiser faces significant problems in trying to purchase the buyer entity information directly from the buyer entity itself. First, a fundamental conundrum (the valuation problem) arises when a merchant attempts to purchase buyer entity information for cash; namely the merchant cannot cost-effectively pay more to some buyers than to others for their information, and have a reliable basis for doing so intelligently, until the merchant has seen and evaluated the information and determined its value (which varies widely among buyer entities). But then the merchant has the information and the buyer entity's identity! Second, the actual value of a buyer entity's information further depends on an unknown variable; namely, the willingness and propensity of that buyer entity to actually respond to any promotions that are later sent to that buyer entity on the basis of the information it has provided. However, this propensity to respond to future promotions is not known at the time that the information is purchased. Third, buyer entities will not trust most advertisers with their individually identifiable transaction information. Fourth, although buyer entities are sometimes willing to answer questions about their purchase behavior in exchange for a reward, I believe that such information is known to be highly unreliable because very few consumers answer these questions truthfully. Consumer answers would become even less reliable if they knew that the answers they give to questions would be routinely used to give better rewards to some consumers than to others, because consumers would then have an incentive to lie about their true purchase behavior.



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14. I declare that the combination of claim 1 includes the necessary elements to create a marketplace for a fundamental trade between interested buyer entities and advertisers, with the combination of claim elements creating a variety of unique and non-obvious features, motivations, and synergies. The claimed combination provides the elements to make such a trading system work to motivate the buyer entity itself to transfer the information in its control voluntarily directly or indirectly to the system and to continue to provide that information (thereby removing the permission problem). The claimed combination also goes toward solving the information valuation problem because the consideration offered to the buyer entity is not direct cash paid on receipt of the information. The claimed combination importantly requires that the information transferred directly or indirectly from the buyer entity be in the form of verified transaction records, so that there is a high potential that the information is reliable. Importantly, the claimed combination requires that the incentives that are provided carry benefits with preferential terms (an important motivator for the buyer entity to provide its records or authorize the provision of its records initially and to keep providing or authorizing the provision of its records), and that they be contingent, so that the buyer entity must take some further action that relates to the purchase of a product offered by a participating advertiser in order to receive the incentive. Of equal importance as a motivator to buyer entities is the requirement that there be a participating group of third party advertisers across an industry or across multiple industries to thereby create an ever-increasing universe of preferential incentives for which the buyer entity may become eligible. With such a claimed combination of elements, individual buyer entities can use their purchase histories to have a potentially large number of merchants/advertisers compete for their unique business, especially in those products and service categories in which a given buyer entity buys the most, without having to disclose (at least not before the time that they respond to an offer) their identifiable purchase history to anyone except to one trusted corporate or electronic intermediary, which need not be the system itself.

From the advertiser's standpoint, the advertiser could not cost-effectively afford to make such preferential promotions available to everyone, because doing so would entail attracting "opportunity seekers" that take advantage of the initial promotion without having a similar longer-term purchase interest. The preferential, contingent nature of the incentives, coupled with the requirement that the buyer entity take a

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further action, and coupled with the condition precedent that the buyer entity have directly or indirectly transferred its verifiable purchase data provide an unusual combination of elements that is likely to attract those buyer entities most likely to make or to consider making purchases through this mechanism. Note that an unusual effect of this system and method is that it facilitates advertisers targeting their most attractive and expensive promotions to buyer entities who are frequent customers of their competitors (who obviously would not willingly provide such data for this purpose.) i.e., the records and/or information are coming from outside the advertiser's own system.

15. With specific reference to Walker '534, this patent is directed to promoting the use within the system of a credit card through incentives. There is no suggestion to transfer in third party generated records or other verifiable information from outside of the system's credit card payment business, nor is there any suggestion to offer incentives from among a plurality of incentives provided by the third party advertisers, nor to allow any third party advertisers to benefit from the information and potentially access directly or indirectly the purchase records of their competitors. Coupled with the above, there is no making or helping to make a decision regarding the eligibility of a particular buyer entity to be offered a preferential contingent incentive from a third party advertiser. Also, the rewards offered by Walker are based only on a particular use of the system's financial account or credit card, and do not relate to the purchase of third party products. Because Walker does not offer third-party incentives and because in Walker there are no third party advertisers, there is no need to find a method which allows these third party advertisers to use information, but without receiving it in personally identifiable form, and there is no recognition of the privacy issue.

16. Based on my 25 years of experience in/with respect to the retail, advertising/marketing industries, it is my opinion that one of ordinary skill in the industry at the time of the filing for this invention, would not have been motivated to either modify Walker or to create a new combination in view of the other prior art references listed above, or in view of any other prior art references that I may be aware of, in order to create the combination of elements of claim 1.

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17. The MacAvinta reference and Perine reference refer to the attempted merger of the Doubleclick database with the Abacus database and simply demonstrate that actual purchase histories are known valuable commodities and discuss potential privacy concerns and the lack of consumer permissions. There is no discussion of the information valuation problem or any of the other elements of the claimed invention. The data mining article published by Ontario's Information and Privacy Commissioner, "Data Mining: Staking A Claim On Your Privacy," simply recognizes that personal information can be a property right of the consumer. The article by Dave Redell on Information Technology and Privacy refers to select merchants using "point-of-sale equipment" to more efficiently capture transaction information at the point of sale which pertains to the goods sold by these same merchants. Seth Godin's *Permission Marketing*, Chapter 10, and the several case studies he cites, including Bonus Mail by Intellipost, Cybergold, Amazon.com, AOL, Value America, Yoyodyne, InfoBeat and MyYahoo relate to the proposition that it would be more effective to obtain the permission of the consumer before sending him/her communications. However, Godin never contemplates the trade of verifiable transaction information by buyer entities (or by anyone else) for a benefit, the significant heretofore unsolved problems regarding such a trade, nor any solution to these problems, much less the solution proposed by the present invention. Likewise, I have reviewed each of the other references cited above. These references do not describe the combination of elements set forth in claim 1, or provide a motivation to modify the Walker patent to create a new system that includes the combination of Claim 1, or to create a new system not necessarily based on Walker that includes the combination of Claim 1.

18. It is my opinion that one of ordinary skill in the art would typically be a direct or incentive marketer or a database marketing specialist with a focus on the acquisition of new customers or the provision of customer acquisition services. Even in the face of these specified references, it is my opinion that it continues to be inherently non-obvious for such a marketer to recognize applicant's way of incenting a consumer to self profile in a privacy-protected manner by creating a central profile hosted by a trusted party with the potential for a universe of different cross-industry incentives from independent third party merchants, to thereby obtain a comprehensive past purchase history across a variety of products and industries that would give the consumer profile

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the accuracy necessary for highly tailored incentives, and at the same time, because of the preferential nature of these incentives, make the consumer amenable to receiving targeted communications containing these incentives. Such a system is inherently not obvious, based on the co-occurrence of the following elements:

1. That there is a transfer of transaction records or information derived from transaction records into the system from outside the system.
2. That the information comes "*directly or indirectly*" from the buyer entity
3. That the information comprises "*third party purchase records or information derived there from.*"
4. That the incentive that is being offered promotes the product of a third party with a distinct business activity.
5. That the buyer entity, which is the provider of the above mentioned transaction records, must be provided with at least one from a plurality of necessarily "*contingent [and] preferential*" incentives. It will be the value of contingent incentives (offers of a "benefit [only] in exchange for at least one action associated with a possible purchase of at least one" product or service of an advertiser) and not any earlier non-contingent cash payment, which, I believe, will normally be the main and primary consideration that a buyer entity that responds to such incentives receives as a result – and in return – for its earlier (and in many cases) continued provision of purchase records to the system. These incentives are not only contingent, they must also be preferential. They offer a "benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on [same or better] terms." Importantly, these incentives are offered based on at least one discriminatory decision: they are offered (on certain terms) to some buyers and not to others. That discrimination is not normally based on the actions buyers might have taken with respect to the purchase of products and services of the advertiser, on whose behalf the incentive is being offered. Instead the discrimination is based at least in part on stored data relating to purchases made by said buyer entity from merchants *other* than the third party advertiser that is associated with the incentive.
6. That the incentive for the advertiser's product or service is offered to the buyer entity, "*without transferring to said third party advertiser directly or*

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*indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity."*

19. It is my opinion that the present claimed invention has the potential for creating a fundamental synergy generated by an ever-increasing cross-industry database of verifiable buyer entity purchase information incenting an ever-increasing cross-industry set of contingent preferential incentives, and vice versa. The greater the number of participating buyer entities, the greater the attractiveness of the present system to new third party advertisers. In turn, as the number of third party advertisers increases, the system becomes increasingly attractive to buyer entities, and the number of participating buyer entities increases as well.

20. It is my opinion that the present claimed invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information of a buyer entity and its response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

21. It is my opinion that a final synergy that the present system generates is that advertisers compete for the business of buyer entities by setting incentive reward levels that will give their particular incentive offer a higher standing as buyer entities sort their incentive offers by level of attractiveness, or as the system presents these offers to buyer entities in a sequence determined by their value. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase record, and its demonstrated propensity to respond to incentive offers for new products and services.

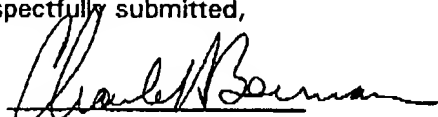
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22. Based on my 25 years of direct marketing industry experience, I state unequivocally that the combination of elements set forth in claim is novel and non-obvious in view of the cited prior art and in view of my own personal knowledge of the prior art.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:

  
Charles H BermanDated: 3/1/03



Atty. Dkt. No. 084561-0108

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark LANDESMANN

Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES

Appl. No.: 09/888,439

Filing Date: 06/26/2001

Examiner: Khanh H. Le

Art Unit: 2100

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231  
Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Pieter Hartsook, a citizen of the United States, residing at 6415 Chelton Drive, Oakland, California 94611, declare and state that:

1. I graduated from University of California, Berkeley, USA, with a Bachelor of Arts in Biological Sciences in 1972. I graduated with a Masters of Library Science Degree from the University of California in 1973. I graduated with a Certificate in Library Science Management from the University of California in 1974.

2. I have twenty-four years of experience in or with respect to the design, control, management, access, and deployment and use of marketing database systems as a developer, designer, and manager of a variety of information services, marketing analysis, database marketing, and business development projects.

3. I worked for Information Planning Associates from 1978-1981 as Project Manager for information support services for Federal agencies. From 1981-1983, I worked for Howard University as Assistant Director of Libraries. From 1982-1987 I provided consulting services including database design and implementation. From 1986-1990 I provided business development and marketing services for products that facilitated sharing of information across local area and wide area networks. From 1990-1998 I worked in the area

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of marketing analysis including customer and consumer analysis and targeting, including from 1996-1997 as Vice President of Marketing Analysis & Research for Apple Computer. Since 1998 I have worked in the database marketing area and the customer acquisition and analysis area for Cybergold/MyPoints, Inc and for Open Source Applications Foundation.

4. I declare that I have read and understood the specification and drawings for application serial number 09/888,439 filed on June 26, 2001, titled 'BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES" and have read and understood claim 1, set out below.

5. I declare that I have read and understood the following prior art references:

- A US-6434534 B1 08-2002
- U Privacy fears raised by DoubleClick database plans by Courtney Macavinta, January 25, 2000, downloaded from <http://news.com.com/2100-1023-236092.html?tag=m.>, 8/8/20
- V Privacy Activists File DoubleClick Complaint, by Keith Perine, the Industry Standard, Feb. 10, 2000
- W Data Mining: Staking a Claim on Your Privacy, January 1998, downloaded from <http://www.ipc.on.ca/english/pubpres/papers/dataminc.htm>, 8/0/02
- X Information technology and the privacy of the Individual, The Role of Privacy in Modern Society, by Dave Redell, Sep. 23, 1992 downloaded from <http://home.pachell.net/webright/personal/acm.text>
- U Permission Marketing by Seth Godin, Simon and Schuster, copyright 1999, chapter 10
- V Permission Marketing: the Way to make advertising work again (Interactive Marketing) (excerpt from 'Permission marketing: Turning Strangers into Friends and Friends into Customers", Chapter 2) also published as Dialog # 01777383, File # 570, by Hoke Communications Inc.

6. Reviewed Claim 1.

1. (Amended) A method for buyer-driven targeting by a system comprising:

receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with



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the purchase of products or services for which the payment was not carried out by the system;

storing information associated with said data;

for a plurality of product or service items offered for sale, wherein each different item in said plurality of items is either manufactured or marketed or distributed or provided by a different third party advertiser in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with at least one of the third party advertisers, wherein there is at least one different preferential contingent incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity with merchants other than the third party advertiser that is associated with the incentive; and offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without having transferred to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received directly or indirectly from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

7. I declare, based on my twenty-four years of experience in the computer information services industry and my knowledge of internet database marketing, that the invention defined in claim 1 is novel and non-obvious in view of the prior art references cited above and also in view of my knowledge of the art. I base this conclusion on the following:

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8 The invention of claim 1 defines a method for creating a working forum or marketplace which merchants and other advertisers may use to acquire potentially valuable buyer entities as new customers or as significantly better customers, while providing a way for buyer entities to self-profile in an anonymous way relative to advertisers, and including a motivation to self-profile.

9. THE PROBLEM: I believe that the following accurately states some of the problems involved. It is widely known that a relatively small number of buyers account for the lions share of the revenues and profits of most companies. As stated above, it is therefore crucial for an advertiser to direct his customer acquisition efforts at those buyer entities that are potentially the most valuable customers. However, the prior art provides advertisers with few ways of identifying prospective new customers with verifiably attractive purchase histories (or those who have the potential of becoming much better customers based on their purchases with competing companies), nor does it offer an effective method of communicating with such prospects without having identified them by name. Importantly there is no cost effective way to send bull's-eye communications to such prospective new customers, which are highly relevant based on their demonstrated previous purchase interests, in a way to motivate them to respond and to continue to respond in part because they understand and expect these communications to be highly relevant to them personally and to contain particularly lucrative offers, but to also obviate permission issues.

Importantly, an advertiser can generally not obtain reliable and relevant purchase information from competing sellers, because these merchants will not want to make their customer lists available to their immediate competitors. Similarly, a retailer will likely refuse payments made with the card of a credit card company which forwards that retailer's transaction data to competitors. Furthermore, merchants can generally not sell the individually identifiable information of consumers without obtaining the permission of those consumers (or informing those consumers of their practices in this regard, and allowing those consumers to opt-out). This is because of privacy laws, such as the Gramm-Leach-Bliley Act, and public pressure. From the consumer standpoint, I believe most consumers will only rarely let a company—even one that they trust—resell their personal transaction data, because they do not know nor can they control how their information is used by the party or parties to whom their data is sold. Furthermore and importantly, no single seller can provide a comprehensive profile about a particular buyer entity because that seller generally only

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possesses a fraction of that buyer entity's purchase history –records of the transaction that the buyer entity made with that seller.

From the advertiser's standpoint, it is as difficult to obtain reliable and relevant purchase information directly from buyer entities as it is to obtain such information from sellers. The advertiser faces significant problems in trying to purchase the buyer entity information directly from the buyer entity itself. First, a fundamental conundrum (the valuation problem) arises when a merchant attempts to purchase buyer entity information for cash; namely the merchant cannot cost-effectively pay cash for information until the merchant has seen and evaluated the information and determined its value (which varies widely among buyer entities). But then the merchant has the information and the buyer entity's identity! Second, the actual value of a buyer entity's information further depends on an unknown variable; namely, the willingness and propensity of that buyer entity to actually respond to any promotions that are later sent to that buyer entity on the basis of the information it has provided. However, this propensity to respond to future promotions is not known at the time that the information is purchased. Third, buyer entities will not trust most advertisers with their individually identifiable transaction information. Fourth, although buyer entities are sometimes willing to answer questions about their purchase behavior in exchange for a reward, I believe that such information is known to be highly unreliable because very few consumers answer these questions truthfully. Consumer answers would become even less reliable if they knew that the answers they give to questions would be routinely used to give better rewards to some consumers than to others, because consumers would then have an incentive to lie about their true purchase behavior.

10. I declare that the combination of claim 1 includes the necessary elements to create a marketplace for a fundamental trade between interested buyer entities and advertisers, with the combination of claim elements creating a variety of unique and non-obvious features, motivations, and synergies. The claimed combination provides the elements to make such a trading system work to motivate the buyer entity itself to transfer the information in its control voluntarily directly or indirectly to the system and to continue to provide that information (thereby removing the permission problem). The claimed combination also goes toward solving the information valuation problem because the consideration offered to the buyer entity is not direct cash paid on receipt of the information. The claimed combination importantly requires that the information transferred directly or

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indirectly from the buyer entity be in the form of verified transaction records, so that there is a high potential that the information is reliable. Importantly, the claimed combination requires that the incentives that are provided carry benefits with preferential terms (an important motivator for the buyer entity to provide its records or authorize the provision of its records initially and to keep providing or authorizing the provision of its records), and contingent, so that the buyer entity must take some further action that relates to the purchase of a product offered by a participating advertiser in order to receive the incentive. Of equal importance as a motivator to buyer entities is the requirement that there be a participating group of third party advertisers across an industry or across multiple industries to thereby create an ever-increasing universe of preferential incentives for which the buyer entity may become eligible. With such a claimed combination of elements, individual buyer entities can use their purchase histories to have a potentially large number of merchants/advertisers compete for their unique business, especially in those products and service categories in which a given buyer entity buys the most, without having to disclose (at least not before the time that they respond to an offer) their identifiable purchase history to anyone except to one trusted corporate or electronic intermediary, which need not be the system itself.

From the advertiser's standpoint, the advertiser could not cost-effectively afford to make such preferential promotions available to everyone, because doing so would entail attracting "opportunity seekers" that take advantage of the initial promotion without having a similar longer-term purchase interest. The preferential, contingent nature of the incentives, coupled with the requirement that the buyer entity take a further action, and coupled with the condition precedent that the buyer entity have directly or indirectly transferred its verifiable purchase data provide an unusual combination of elements that is likely to attract those buyer entities most likely to make or to consider making purchases through this mechanism. Note that an unusual effect of this system and method is that it facilitates advertisers targeting their most attractive and expensive promotions to buyer entities who are frequent customers of their competitors (who obviously would not willingly provide such data for this purpose.)—i.e., the records and/or information are coming from outside the advertiser's own system.

11. With specific reference to Walker 534, this patent is directed to promoting the use within the system of a credit card through incentives. There is no suggestion to transfer in third party generated records or other verifiable information from outside of the system's credit card payment business, nor is there any suggestion to offer incentives from among a plurality of incentives provided by the third party advertisers, nor to allow any third party

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advertisers to benefit from the information and potentially access directly or indirectly the purchase records of their competitors. Coupled with the above, there is no making or helping to make a decision regarding the eligibility of a particular buyer entity to be offered a preferential contingent incentive from a third party advertiser. Also, the rewards offered by Walker are based only on a particular use of the system's financial account or credit card, and do not relate to the purchase of third party products. Because Walker does not offer third-party incentives and because in Walker there are no third party advertisers, there is no need to find a method which allows these third party advertisers to use information, but without receiving it in personally identifiable form, and there is no recognition of the privacy issue.

12. Based on my seventeen years of experience in/with respect to the retail, advertising/marketing industry/ies, it is my opinion that one of ordinary skill in the industry at the time of the filing for this invention, would not have been motivated to either modify Walker or to create a new combination in view of the other prior art references listed above, or in view of any other prior art references that I may be aware of, in order to create the combination of elements of claim 1.

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13. The MacAvinta reference and Perine reference refer to the attempted merger of the Doubleclick database with the Abacus database and simply demonstrate that actual purchase histories are known valuable commodities and discuss potential privacy concerns and the lack of consumer permissions. There is no discussion of the information valuation problem or any of the other elements of the claimed invention. The data mining article published by Ontario's Information and Privacy Commissioner, "Data Mining: Staking A Claim On Your Privacy," simply recognizes that personal information can be a property right of the consumer. The article by Dave Redell on Information Technology and Privacy refers to select merchants using "point-of-sale equipment" to more efficiently capture transaction information at the point of sale which pertains to the goods sold by these same merchants. Seth Godin's Permission Marketing, Chapter 10, and the several case studies he cites, including Bonus Mail by Intellipost, Cybergold, Amazon.com, AOL, Value America, Yoyodyne, InfoBeat and MyYahoo relate to the proposition that it would be more effective to obtain the permission of the consumer before sending him/her communications. However, Godin never contemplates the trade of verifiable transaction information by buyer entities (or by anyone else) for a benefit, the significant heretofore unsolved problems regarding such a

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trade, nor any solution to these problems, much less the solution proposed by the present invention. Likewise, I have reviewed each of the other references cited above. These references do not describe the combination of elements set forth in claim 1, or provide a motivation to modify the Walker patent to create a new system that includes the combination of Claim 1, or to create a new system not necessarily based on Walker that includes the combination of Claim 1.

14. It is my opinion that one of ordinary skill in the art would typically be a direct or incentive marketer or a database marketing specialist with a focus on the acquisition of new customers or the provision of customer acquisition services. Even in the face of these specified references, it is my opinion that it continues to be inherently non-obvious for such a marketer to recognize applicant's way of incenting a consumer to self profile in a privacy-protected manner by creating a central profile hosted by a trusted party with the potential for a universe of different cross-industry incentives from independent third party merchants, to thereby obtain a comprehensive past purchase history across a variety of products and industries that would give the consumer profile the accuracy necessary for highly tailored incentives, and at the same time, because of the preferential nature of these incentives, make the consumer amenable to receiving targeted communications containing these incentives. Such a system, because it would allow direct competitors of those companies that have previously sold products and processed payments for particular buyer entities to compete for the business of these buyer entities, is inherently not obvious.

15. It is my opinion that the present claimed invention has the potential for creating a fundamental synergy generated by an ever-increasing cross-industry database of verifiable buyer entity purchase information incenting an ever-increasing cross-industry set of contingent preferential incentives, and vice versa. The greater the number of participating buyer entities, the greater the attractiveness of the present system to new third party advertisers. In turn, as the number of third party advertisers increases, the system becomes increasingly attractive to buyer entities, and the number of participating buyer entities increases as well.

16. It is my opinion that the present claimed invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information of a buyer entity and its response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly

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by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

17. It is my opinion that a final synergy that the present system generates is that advertisers compete for the business of buyer entities by setting incentive reward levels that will give their particular incentive offer a higher standing as buyer entities sort their incentive offers by level of attractiveness, or as the system presents these offers to buyer entities in a sequence determined by their value. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase record, and its demonstrated propensity to respond to incentive offers for new products and services.

18. Based on my twenty-four years of database and information systems design and management, customer acquisition and analysis, and database marketing industry experience, I state unequivocally that the combination of elements set forth in claim 1 is novel and non-obvious in view of the cited prior art and in view of my own personal knowledge of the prior art.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:

  
Pieter Hartsook

Dated: 3-10-2003



Atty. Dkt. No. 084561-0108

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark LANDESMANN  
 Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES  
 Appl. No.: 09/888,439  
 Filing Date: 06/26/2001  
 Examiner: Khanh H. Le  
 Art Unit: 2100

Commissioner for Patents  
 Box NON-FEE AMENDMENT  
 Washington, D.C. 20231

Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Rajiv Lal, a citizen of U.S., residing at 1 Hastings Road, Weston, MA, declare and state that:

1. I did my undergraduate work in mechanical engineering at the Indian Institute of Technology at Kanpur, India and received my PhD in Industrial Administration from Carnegie-Mellon University.

2. I am the Stanley Roth, Sr. Professor of Retailing at Harvard Business School where I am the course head for the required course in Marketing in the first year of the MBA program and also teach in several Executive Education programs including the Top Management Seminar for Retailers and Suppliers. Previously, I was Professor at the Graduate School of Business at Stanford University since 1982. I was the Thomas Henry Carroll Ford Foundation Visiting Professor at Harvard Business School for 1997-98. I was visiting Professor of Marketing at INSEAD, France in 1986, 1988, 1992 and 1993. I have been an Area Editor for *Marketing Science* and currently serve as the Co-Editor for the *Journal of Quantitative Marketing and Economics*.

3. My current research is concerned with the dramatic changes affecting retailing. My most recent work in this area studies the impact of using the Internet as a



channel of distribution on a retailer's pricing, merchandising and branding strategy. My paper on this subject was published in Marketing Science and was nominated for the award of the best paper in Marketing and Management Science. My earlier work in retailing studied the impact of competition between different retail formats, such as EDLP and Hi-Lo grocers. I have also studied the consequences of the increasing use of store brands by grocery retailers on store loyalty and its implications for packaged goods manufacturers. My earlier research has focused on pricing, trade promotions and salesforce compensation plans.

4. I have published the following Articles and Case Materials:

**Articles**

Corstjens, Marcel, and R. Lal. "Building Store Loyalty Through Store Brands." Journal of Marketing Research 37, no. 3 (August 2000): 281-291.

Lal, R., and M. Sarvary. "When and How Is the Internet Likely to Decrease Price Competition." Marketing Science 18, no. 4 (1999): 485-503. (Nominated for the Little Award.)

Lal, R., and Miguel Villas-Boas. "Price Promotions and Trade Deals with Multiproduct Retailers." Management Science 44, no. 7 (July 1998).

Lal, R., and R. Rao. "Supermarket Competition: The Case of Every Day Low Pricing." Marketing Science (winter 1997).

Lal, R., and C. Narasimhan. "The Effect of Manufacturer Advertising on Retail and Wholesale Margins." Marketing Science (spring 1996).

Lal, R., and J. M. Villas-Boas. "Exclusive Dealing and Price Promotions." Journal of Business (April 1996).

Lal, R., J. D. Little, and J. M. Villas-Boas. "Forward Buying, Merchandising and Manufacturer Trade Deals: A Model." Marketing Science (winter 1996).

Lal, R., M. Corstjens, and J. Corstjens. "Retail Competition in the Fast Moving Consumer Goods Industry: The Case of France and the U.K." European Marketing Journal (December 1995).

Lal, R., and V. Padmanabhan. "Competitive Response and Equilibria." *Marketing Science* (spring 1995).

Agrawal, D., and R. Lal. "Contractual Arrangements in Franchising: An Empirical Investigation." *Journal of Marketing Research* 32, no. 2 (May 1995).

Lal, R., and C. Matutes. "Retail Pricing and Advertising Strategies." *Journal of Business* (July 1994).

Lal, R., D. Outland, and R. Staelin. "Salesforce Compensation Plans: An Individual Level Analysis." *Marketing Letters* (April 1994).

Lal, R. "Salesforce Compensation Plans: Managerial Insights from Recent Theoretical Developments." *Recherche et Applications en Marketing* (January 1994).

Lal, R., and V. Srinivasan. "Compensation Plans for Single- and Multi-Product Salesforces: An Application of the Holmstrom-Milgrom Model." *Management Science* (July 1993).

Rangan, V. K., R. Lal, and E. Maier. "Managing Marginal New Products." *Business Horizons* 35, no. 5 (September-October 1992): 35-42.

Lal, R., and Anne Coughlan. "Retail Pricing: Does Channel Length Matter." *Managerial and Decision Economics* (September 1991).

Lal, R. "Manufacturer Trade Deals and Retail Price Promotions." *Journal of Marketing Research* (November 1990).

Lal, R. "Improving Channel Coordination Through Franchising." *Marketing Science* (Fall 1990).

Lal, R. "Price Promotions: Limiting Competitive Encroachment." *Marketing Science* (Summer 1990). (Nominated for the John D.C. Little award for the best article in *Management & Marketing Science* in 1990.)

Lal, R., J. S. Raju, and V. Srinivasan. "The Effects of Brand Loyalty on Competitive Price Promotional Strategies." *Management Science* (March 1990). (Nominated for the John D. C. Little.)

Lal, R., and Carmen Matutes. "Price Competition in Multi-Market Duopolies." The RAND Journal of Economics (Winter 1989).

Lal, R., and Carmen Matutes. "Price Competition in Multi-Market Duopolies." The RAND Journal of Economics (Winter 1989).

Lal, R. "Delegating Pricing Responsibility to the Salesforce." Marketing Science (Spring 1986).

Lal, R., and Richard Staelin. "Salesforce Compensation Plans in Environments with Asymmetric Information." Marketing Science (Summer 1986). (Runner-up, TIMS College of Marketing award for the best article in Management and Marketing Science, 1986.)

Lal, R., A. K. Basu, V. Srinivasan, and Richard Staelin. "A Theory of Salesforce Compensation Plans." Marketing Science (Fall 1985). (Winner, TIMS College of Marketing award for the best article in Management and Marketing Science, 1985.)

Lal, R., and Richard Staelin. "An Approach for Developing an Optimal Discount Pricing Policy." Management Science (December 1984).

#### **Teaching and Training Materials**

Lal, R. "ETrade Securities, Inc." M-286, Stanford Graduate School of Business Case Series.

Lal, R. Hudson's Bay Co. M-283, Stanford Graduate School of Business Case Series.

Lal, R. Orchard Supply Hardware Stores. M-282, Stanford Graduate School of Business Case Series.

Lal, R. "Sears, Roebuck and Co." M-278, Stanford Graduate School of Business Case Series.

Lal, R. SmithKline Beecham (SB). M-281, Stanford Graduate School of Business Case Series.

Lal, R. Value Pricing at Procter & Gamble (B). M-284, Stanford Graduate School of Business Case Series.

**Harvard Business School Course Materials**

Lal, Rajiv, and Edie Prescott. "Callaway Golf Company." Harvard Business School Case 501-019.

Lal, Rajiv, and Patricia Carrolo. "Callaway Golf Company TN." Harvard Business School Teaching Note 501-082.

Lal, Rajiv, Michael J. Roberts, and Walter J. Salmon. "Chapters.ca." Harvard Business School Case 801-158.

Lal, Rajiv, and David Kiron. "Charles Schwab Corp.: Introducing A New Brand." Harvard Business School Case 502-020.

Lal, Rajiv, and Sean Lanagan. "Documentum, Inc." Harvard Business School Case 502-026.

Lal, Rajiv. "Documentum, Inc. (TN)." Harvard Business School Teaching Note 503-035.

Lal, Rajiv, and Amy H. Nelson. "First USA and Internet Marketing." Harvard Business School Case 500-043.

Lal, Rajiv, and James Weber. "Freeport Studio." Harvard Business School Case 501-021.

Lal, Rajiv. "Freeport Studio, TN." Harvard Business School Teaching Note 502-087.

Lal, Rajiv, Jodi L. Prins, and Nilanjana R. Pal. "GetConnected.com." Harvard Business School Case 501-025.

Lal, Rajiv, and Ann Leamon. "Guru.com." Harvard Business School Case 501-005.

Lal, Rajiv. "Harrah's Entertainment Inc." Harvard Business School Course Software 502-711.

Lal, Rajiv, and Patricia Carrolo. "Harrah's Entertainment Inc." Harvard Business School Case 502-011.

Lal, Rajiv. "Harrah's Entertainment Inc. TN." Harvard Business School Teaching Note 502-091.

Lal, Rajiv, Kirithi Kalyanam, Shelby McIntyre, and Edie Prescott. "HP Consumer Products Business Organization: Distributing Printers via the Internet." Harvard Business School Case 500-021.

Lal, Rajiv. "HP Consumer Products Business Organization: Distributing Printers via the Internet, TN." Harvard Business School Teaching Note 503-025.

Lal, Rajiv, and Purnima P Kochikar. "Intuit QuickBooks." Harvard Business School Case 501-054.

Bell, David E., Rajiv Lal, and Ann Leamon. "Lees Supermarkets: Customer Loyalty Programs." Harvard Business School Case 500-038.

Dolan, Robert J., Rajiv Lal, and Perry Fagan. "net.Genesis, Inc." Harvard Business School Case 500-009.

Lal, Rajiv, and Nilanjana R. Pal. "New Beetle, The." Harvard Business School Case 501-023.

Lal, Rajiv. "New Beetle, The TN." Harvard Business School Teaching Note 502-088.

Lal, Rajiv, and Patricia Carrolo. "Novartis AG: The U.S. Lamisil Switch." Harvard Business School Case 502-015.

Knoop, Carin-Isabel, Rajiv Lal, and Suma Raju. "Omnitel Pronto Italia." Harvard Business School Case 501-002.

Knoop, Carin-Isabel, Rajiv Lal, and Suma Raju. "Omnitel Pronto Italia TN." Harvard Business School Teaching Note 501-075.

5. I declare that I have read and understood the specification and drawings for application serial number 09/888,439 filed on June 26, 2001, titled "BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES" and have read and understood claim 1, set out below.

6. Reviewed Claim 1.

1. (Amended) A method for buyer-driven targeting by a system comprising: receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system; storing information associated with said data; for a plurality of product or service items offered for sale, wherein different items in said plurality of items are either manufactured or marketed or distributed or provided by different third party advertisers in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with one of the third party advertisers, wherein there is at least one different preferential contingent incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, each item associated with at least one of said third party advertisers, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity from merchants other than the third party advertiser that is associated with the incentive; and

offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received directly or indirectly from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

7. I declare, based on my 20 years of experience in the retailing, advertising and promotion industries and my knowledge of marketing, that the invention defined in claim 1 is novel and non-obvious in view of the prior art references cited above and also in view of my knowledge of the art. I base this conclusion on the following:

8 The invention of claim 1 defines a method for creating a working forum or marketplace which merchants and other advertisers may use to acquire potentially valuable buyer entities as new customers or as significantly better customers, while providing a way for buyer entities to self-profile in an anonymous way relative to advertisers, and including a motivation to self-profile.

9. THE PROBLEM: I believe that the following accurately states some of the problems involved. It is widely known that a relatively small number of buyers account for the lions share of the revenues and profits of most companies. As stated above, it is therefore crucial for an advertiser to direct his customer acquisition efforts at those buyer entities that are potentially the most valuable customers. However, the prior art provides advertisers with few ways of identifying prospective new customers with verifiably attractive purchase histories ( those who have the potential of becoming much better customers based on their purchases with competing companies), nor does it offer an effective method of communicating with such prospects without having identified them by name. Importantly there is no cost effective way to send bull's-eye communications to such prospective new customers, which are highly relevant based on their demonstrated previous purchase interests, in a way to motivate them to respond and to continue to respond in part because they understand and expect these communications to be highly relevant to them personally and to contain particularly lucrative offers, but to also obviate permission issues.

Importantly, an advertiser can generally not obtain reliable and relevant purchase information from competing sellers, because these merchants will not want to make their customer lists available to their immediate competitors. Similarly, a retailer will likely refuse payments made with the card of a credit card company which forwards that retailer's transaction data to competitors. Furthermore, merchants can generally not sell the individually identifiable information of consumers without obtaining the permission of those consumers (or informing those consumers of their practices in this regard, and allowing those consumers to opt-out). This is because of privacy laws, such as the Gramm-Leach-Bliley Act, and public pressure. From the consumer standpoint, I believe most consumers will only rarely let a company – even one that they trust – resell their personal transaction data, because they do not know nor can they control how their information is used by the party or parties to whom their data is sold. Furthermore and importantly, no single seller can provide a comprehensive profile about a particular buyer entity because that seller generally only possesses a fraction of that buyer entity's purchase history – records of the transaction that the buyer entity made with that seller.

From the advertiser's standpoint, it is as difficult to obtain reliable and relevant purchase information directly from buyer entities as it is to obtain such information from sellers. The advertiser faces significant problems in trying to purchase the buyer entity information directly from the buyer entity itself. First, a fundamental conundrum (the valuation problem) arises when a merchant attempts to purchase buyer entity information for cash; namely the merchant cannot cost-effectively pay cash for information until the merchant has seen and evaluated the information and determined its value (which varies widely among buyer entities). But then the merchant has the information and the buyer entity's identity! Second, the actual value of a buyer entity's information further depends on an unknown variable; namely, the willingness and propensity of that buyer entity to actually respond to any promotions that are later sent to that buyer entity on the basis of the information it has provided. However, this propensity to respond to future promotions is not known at the time that the information is purchased. Third, buyer entities will not trust most advertisers with their individually identifiable transaction information. Fourth, although buyer entities are sometimes willing to answer questions about their purchase behavior in exchange for a reward, I believe that such information is known to be highly unreliable because very few consumers answer these questions truthfully. Consumer answers would become even less reliable if they knew that the answers they give to questions would be routinely used to give better rewards to some consumers than to others, because consumers would then have an incentive to lie about their true purchase behavior.

10. I declare that the combination of claim 1 includes the necessary elements to create a marketplace for a fundamental trade between interested buyer entities and advertisers, with the combination of claim elements creating a variety of unique and non-obvious features, motivations, and synergies. The claimed combination provides the elements to make such a trading system work to motivate the buyer entity itself to transfer the information in its control voluntarily directly or indirectly to the system and to continue to provide that information (thereby removing the permission problem). The claimed combination also goes toward solving the information valuation problem because the consideration offered to the buyer entity is not direct cash paid on receipt of the information. The claimed combination importantly requires that the information transferred directly or indirectly from the buyer entity be in the form of verified transaction records, so that there is a high potential that the information is reliable. Importantly, the claimed combination requires that the incentives that are provided carry benefits with preferential terms (an important motivator for the buyer entity to provide its records or authorize the provision of its



records initially and to keep providing or authorizing the provision of its records), and contingent, so that the buyer entity must take some further action that relates to the purchase of a product offered by a participating advertiser in order to receive the incentive. Of equal importance as a motivator to buyer entities is the requirement that there be a participating group of third party advertisers across an industry or across multiple industries to thereby create an ever-increasing universe of preferential incentives for which the buyer entity may become eligible. With such a claimed combination of elements, individual buyer entities can use their purchase histories to have a potentially large number of merchants/advertisers compete for their unique business, especially in those products and service categories in which a given buyer entity buys the most, without having to disclose (at least not before the time that they respond to an offer) their identifiable purchase history to anyone except to one trusted corporate or electronic intermediary, which need not be the system itself.

From the advertiser's standpoint, the advertiser could not cost-effectively afford to make such preferential promotions available to everyone, because doing so would entail attracting "opportunity seekers" that take advantage of the initial promotion without having a similar longer-term purchase interest. The preferential, contingent nature of the incentives, coupled with the requirement that the buyer entity take a further action, and coupled with the condition precedent that the buyer entity have directly or indirectly transferred its verifiable purchase data provide an unusual combination of elements that is likely to attract those buyer entities most likely to make or to consider making purchases through this mechanism. Note that an unusual effect of this system and method is that it facilitates advertisers targeting their most attractive and expensive promotions to buyer entities who are frequent customers of their competitors (who obviously would not willingly provide such data for this purpose.)—i.e., the records and/or information are coming from outside the advertiser's own system.

11. With specific reference to Walker '534, this patent is directed to promoting the use within the system of a credit card through incentives. There is no suggestion to transfer in third party generated records or other verifiable information from outside of the system's credit card payment business, nor is there any suggestion to offer incentives from among a plurality of incentives provided by the third party advertisers, nor to allow any third party advertisers to benefit from the information and potentially access directly or indirectly the purchase records of their competitors. Coupled with the above, there is no making or helping to make a decision regarding the eligibility of a particular buyer entity to be offered a

preferential contingent incentive from a third party advertiser. Also, the rewards offered by Walker are based only on a particular use of the system's financial account or credit card, and do not relate to the purchase of third party products. Because Walker does not offer third-party incentives and because in Walker there are no third party advertisers, there is no need to find a method which allows these third party advertisers to use information.

12. The MacAvinta reference and Perine reference refer to the attempted merger of the Doubleclick database with the Abacus database and simply demonstrate that actual purchase histories are known valuable commodities and discuss potential privacy concerns and the lack of consumer permissions. There is no discussion of the information valuation problem or any of the other elements of the claimed invention. The data mining article published by Ontario's Information and Privacy Commissioner, "Data Mining: Staking A Claim On Your Privacy," simply recognizes that personal information can be a property right of the consumer. The article by Dave Redell on Information Technology and Privacy refers to select merchants using "point-of-sale equipment" to more efficiently capture transaction information at the point of sale which pertains to the goods sold by these same merchants. Seth Godin's (My) Permission Marketing, Chapter 10, relates to the proposition that it would be more effective to obtain the permission of the consumer before sending him/her communications. However, Godin (I) never contemplate(s) the trade of verifiable transaction information by buyer entities (or by anyone else) for a benefit, the significant heretofore unsolved problems regarding such a trade, nor any solution to these problems, much less the solution proposed by the present invention. Likewise, I have reviewed each of the other references cited above. These references do not describe the combination of elements set forth in claim 1, or provide a motivation to modify the Walker patent to create a new system that includes the combination of Claim 1, or to create a new system not necessarily based on Walker that includes the combination of Claim 1.

13. It is my opinion that the present claimed invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information of a buyer entity and its response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyer entities that have a track record

of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

14. It is my opinion that a final synergy that the present system generates is that advertisers compete for the business of buyer entities by setting incentive reward levels that will give their particular incentive offer a higher standing as buyer entities sort their incentive offers by level of attractiveness, or as the system presents these offers to buyer entities in a sequence determined by their value. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase record, and its demonstrated propensity to respond to incentive offers for new products and services.

15. Based on my 20 years of academic and industry experience, I state unequivocally that the combination of elements set forth in claim 1 is novel and non-obvious in view of the cited prior art and in view of my own personal knowledge of the prior art.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:

  
(FULL NAME)

Dated: March 8, 2003



Atty. Dkt. No. 084561-0108

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark LANDESMANN

Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES

Appl. No.: 09/888,439

Filing Date: 06/26/2001

Examiner: Khanh H. Le

Art Unit: 2100

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231

Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

I, John Anthony Deighton, a citizen of South Africa, residing at 483 Pleasant Street #4, Belmont, MA 02478, declare and state that:

1. I graduated with a Ph D (1983) Wharton School, University of Pennsylvania; a MBA (1972) Graduate School of Business, University of Cape Town; and a BS (Chemical Engineering) (1968) University of Natal, South Africa.
2. I am a professor at the Harvard Graduate School of Business Administration focusing on how interactive technologies shape the practice of marketing. The positions I hold and have held are as follows:

Harvard University, Graduate School of Business Administration.  
*Harold M. Brierley Professor of Business Administration, 2000 to present.*  
*Professor of Business Administration, 1997 to 2000.*  
*Associate Professor of Business Administration, 1994 to 1997.*

University of Chicago, Graduate School of Business.  
*Associate Professor of Marketing, 1990 to 1994.*  
*Assistant Professor of Marketing, 1987 to 1990.*  
*Visiting Assistant Professor of Marketing, 1986.*

Dartmouth College, Amos Tuck School of Business Administration.  
*Assistant Professor of Business Administration, 1982 to 1987.*

Herbert Penny (Pty.) Limited, South Africa.  
*Managing Director of Consulting Division, 1973 to 1980.*

Unilever (South Africa) Limited.  
*Brand Assistant and Brand Manager, 1969 to 1972.*

3. My publications and other activities include and have included:

*Journal Articles:*

Deighton, John (2002), "How Snapple Got its Juice Back," Harvard Business Review, January.

Sherman, Lee and John Deighton (2001), "Banner Advertising: Measuring Effectiveness and Optimizing Placement," Journal of Interactive Marketing 15 (2) (Spring).

Deighton, John (1997), "Commentary on 'Exploring the Implications of Marketing on the Internet,'" Journal of the Academy of Marketing Science, 25 (Fall).

Winer, Russell, John Deighton *et al* (1997), "Choice in Computer-Mediated Environments," Marketing Letters 8 (3) (July).

Deighton, John *et al* (1996), "The Future of Interactive Marketing," Harvard Business Review, November/December.

Blattberg, Robert C. and John Deighton (1996), "Manage Marketing by the Customer Equity Test," Harvard Business Review, July/August.

Deighton, John and Kent Grayson (1995), "Marketing and Seduction: Building Exchange Relationships by Managing Social Consensus," Journal of Consumer Research 21 (April).

Winer, Russell, John Deighton *et al* (1994), "When Worlds Collide: The Implications of Panel Data-Based Choice Models for Consumer Behavior," Marketing Letters 5 (3) (October).

Deighton, John, Caroline M. Henderson and Scott Neslin (1994), "The Effects of Advertising on Brand Switching and Repeat Purchasing," Journal of Marketing Research 31 (February).

Deighton, John (1992), "The Consumption of Performance," Journal of Consumer Research 19 (December).

Blattberg, Robert C. and John Deighton (1991), "Interactive Marketing: Exploiting the Age of Addressability," Sloan Management Review, 33 (Fall), 5-14. Reprinted in Business Edge, May 1992. Translated and reprinted in Harvard Business Manager, 15 (1) 1993.

Deighton, John, Daniel Romer and Josh McQueen (1989), "Using Drama to Persuade," Journal of Consumer Research, 16 (December).

Hoch, Stephen J. and John Deighton (1989), "Managing What Consumers Learn From Experience," Journal of Marketing, 53 (April).

Deighton, John and Robert M. Schindler (1988), "Can Advertising Influence Experience?" Psychology and Marketing, 5 (2).

Walsh, James P., Caroline M. Henderson and John Deighton (1988), "Negotiated Belief Structures and Decision Performance: An Empirical Investigation," Organizational Behavior and Human Decision Processes, 42.

Deighton, John (1984), "The Interaction of Advertising and Evidence," Journal of Consumer Research, 11 (December).

*Book Chapters, Proceedings Articles and Invited Articles:*

Deighton, John and Patrick Barwise (2001), "Digital Marketing Communication," in Digital Marketing : Global Strategies from the World's Leading Experts Ed. Jerry Wind and Vijay Mahajan. New York, NY: John Wiley and Sons

Deighton, John (2001), "Service Markets and the Internet," in Services Marketing: People, Technology, Strategy, Christopher Lovelock. Upper Saddle River, NJ.: Prentice Hall.

Deighton, John (2000), "Frequency Programs in Service Industries," in Handbook of Services Marketing and Management. Ed. Teresa A. Swartz and Dawn Iacobucci, Thousand Oaks, CA.: Sage Publications.

Deighton, John (1999), "Integrated Marketing Communications in Practice," in The Advertising Business, Ed. John Philip Jones, Thousand Oaks, CA.: Sage Publications.

Barwise, Patrick and John Deighton (1999), "Digital Media: Cutting Through the Hype," Mastering Marketing. London: Pearson Education Ltd.

Deighton, John (1996), "Features of Good Integration: Two Cases and Some Generalizations," in Integrated Communications: Synergy of Persuasive Voices, Ed. Ester Thorsen and Jeri Moore, Hillsdale, N.J.: Lawrence Erlbaum Associates.

Grayson, Kent and John Deighton (1995), "Playing and the Locus of Rules," in Frank R. Kardes and Mita Suja (eds.) Advances in Consumer Research, 22, 241-2.

Deighton, John, Don Peppers and Martha Rogers (1994) "Consumer Transaction Databases: Present Status and Prospects," in The Marketing Information Revolution, ed. Robert C. Blattberg, Rashi Glazer and John Little. Cambridge: The Marketing Science Institute.

Deighton, John, (1994), "Managing Services When the Service is a Performance," in Service Quality: New Directions in Theory and Practice, ed. Roland T. Rust and Richard L. Oliver. Thousand Oaks, CA: Sage Publications, Inc.

McQueen, Josh, Carol Foley and John Deighton (1993), "Decomposing a Brand's Consumer Franchise into Buyer Types," in Brand Equity and Advertising: Advertising's Role in Building Strong Brands, ed. David A. Aaker and Alexander L. Biel, Hillsdale, N.J.: Lawrence Erlbaum Associates.

Deighton, John and Stephen J. Hoch (1993), "Teaching Emotion with Drama Advertising," in Advertising Exposure, Memory and Choice, ed. Andrew A. Mitchell. Hillsdale, N.J.: Lawrence Erlbaum Associates.

Alwitt, Linda F., John Deighton and John Grimm (1991), "Reactions to Political Advertising Depend on the Nature of the Voter-Candidate Bond," in Television and Political Advertising, Volume 1: Psychological Processes Frank Biocca (Ed.) Hillsdale, NJ: Lawrence Erlbaum Associates.

Deighton, John (1988), "Two Meanings for Transformation," Advances in Consumer Research, 15, M. Houston (Ed.). Ann Arbor: Association for Consumer Research.

Deighton, John (1987), "A Simple Representation of the Contingent Structure of Knowledge," Advances in Consumer Research, 14, P. Anderson and M. Wallendorf (Eds.). Ann Arbor: Association for Consumer Research.

Deighton, John (1986), "Persuasion as Directed Inference," Advances in Consumer Research, 13, R. Lutz (Ed.). Ann Arbor: Association for Consumer Research.

Deighton, John (1985), "Rhetorical Strategies in Advertising," Advances in Consumer Research, Volume 12, M. Holbrook and E. Hirschman (Eds.). Ann Arbor: Association for Consumer Research.

Deighton, John (1983), "How to Solve Problems that Don't Matter: Some Heuristics for Uninvolved Thinking," Advances in Consumer Research, 10, R.P. Bagozzi and A.M. Tybout (Eds.). Ann Arbor: Association for Consumer Research. Reprinted in Wallendorf and Zaltman, (Eds.). Readings in Consumer Behavior, 2nd Edition, Wiley, 1984.

Deighton, John, Francesco Nicosia and Yoram Wind (1983), "Exploration into the Time-Money Tradeoff: Concepts and an Application," Proceedings of the ESOMAR Annual Conference, San Francisco.

*Case Studies and Teaching Notes:*

"Siebel Systems: Anatomy of a Sale." HBS Case #9-502-048

"Centra Software." HBS Case #9-501-088

"Bouygues Telecom." HBS Case #9-501-068

"The Peppers and Rogers Group." HBS Case #9-500-096

"Doubleclick buys Abacus A." HBS Case #9-500-091

"Doubleclick buys Abacus B." HBS Case #9-501-085

"Hilton Hotels: Loyalty Wars." HBS Case #9-500-079, Teaching Note TN#5-501-059

"Webvan: Groceries on the Web." HBS Case #9-500-052

"Alloy: Marketing to Generation Y." HBS Case #9-500-048, Teaching Note TN#5-501-043

"The Brita Products Company." HBS Case #9-500-024

"CVS: The Web Strategy." HBS Case #9-500-008, Teaching Note TN#5-501-064

"Snapple." HBS Case #9-599-126, Teaching Note TN#5-500-033

"MicroFridge: The Concept." HBS Case #9-599-049

"First Year Marketing Module Summary: Evolution of Marketing." HBS TN #598-017

"USA Today Online." HBS case #9-958-133, Teaching Note, " TN #5 599 097

"Dendrite International (A) (condensed)," HBS case #597-072.

"Rogers Communications Inc.: The WAVE," HBS case #597-050, Teaching Note," HBS TN #597-078.

"Note on Marketing and the World Wide Web," HBS case #597-037.

"SiteSpecific," HBS case #596-117.

"IDS Financial Services (condensed)," HBS case #596-045, Teaching Note," HBS TN #596-061.

"Consumer Behavior Exercise (A), (B), (C), (D), (E) & (F)," HBS case #596-039, 596-040, 596-041,

596-042, 596-043 & 596-044.

"McNeil Consumer Products Company: Tylenol," in The Ethical Manager. Ed. Ronald M. Green, Macmillan 1994.

### **CONFERENCE DESIGN**

Conference Co-Chair, Marketing Science Institute, "Research Frontiers in Interactive Marketing," Cambridge, MA September 1997.

Conference Chair, Harvard Business School, "The Future of Interactive Marketing," Boston, MA May 1996.

Program Committee, Association for Consumer Research Annual Conference, 1996, 1997, 1998, 2000, 2001, 2002.

### **CONFERENCE PRESENTATIONS**

University of Maryland, Invited paper, "Branding customers," January 2002.

Association for Consumer Research, "A close analysis of a loyalty program," Annual Conference, San Antonio, October 2001.

Rutgers University, Invited paper, "Branding customers," April 2001.

University of Rhode Island, North East Marketing Seminar, Invited paper, "Branding customers." April 2001.

University of Exeter, Invited paper, "Marketing in the information age," March 2001

University of Manchester Institute of Technology, Invited paper, "Marketing in the information age," March 2001

London Business School, Invited paper, "Marketing in the information age," March 2001

Queen's University, Belfast, Invited paper, "Marketing in the information age," March 2001

Dublin City University, Invited paper, "Marketing in the information age," March 2001.

Georgia State University, Invited paper, "Managing customers for profit," February 2001.

Keio University, Osaka, Japan. Visiting professor, July 2000.

INSEAD Summer Marketing Camp. Invited paper, "When does the Internet favor incumbent firms?" June 2000.

Erasmus University, Rotterdam, Netherlands, Keynote Address, "Interactive marketing," May 2000.

Marketing Science Institute, Miami, FL., Invited paper, "Sources of increasing returns on the Internet," December 1999.



Association for Consumer Research, *"Assimilating innovations,"* (with Susan Fournier) Annual Conference, Columbus, October 1999.

American Marketing Association, San Francisco, CA., Invited paper, *"The Web and persuasion,"* August 1999.

Georgetown University, Invited paper, *"Marketing meets the Internet,"* April 1999.

Emerson College, Davis Symposium, Invited presentation, *"Interactive marketing,"* April, 1999

University of California, Davis, Invited paper, *"Interactive marketing,"* February 1999.

Wharton Conference on Digital Marketing, *"Digital Communication,"* Wharton School, University of Pennsylvania, October 1998.

Vanderbilt University, Frontiers in Services Marketing Conference Keynote address, *"Branding the Customer,"* September 1998.

Association for Consumer Research, *"Special Session Chair: Computers as Social Actors,"* Annual Conference, Montreal, Canada, October 1998.

American Marketing Association, Doctoral Consortium, *"Marketing Research in Interactive Media,"* Atlanta GA September 1998.

Emory University, Relationship Marketing Conference, *"Digital Seduction,"* June 1998.

Academy of Marketing Science Faculty Consortium, Keynote Address, Norfolk, VA., May 1998.

COTIM Keynote Address, *"Marketing in the Age of Addressability,"* Brussels, Belgium, November 1997.

Association for Consumer Research, *"Special Session Discussant: Virtual Spaces as Consumer Environments,"* Annual Conference, Denver, CO, October 1997.

Direct Marketing Education Foundation Address, September 1997.

American Marketing Association, Summer Educators' Conference, *"The Interactive Future: Competition and Collaboration between Marketing and Information Technology,"* Chicago, IL, August 1997.

Stanford University Graduate School of Business, *"Interactive Marketing,"* Marketing Camp, Palo Alto, July 1997.

University of Toronto, Faculty of Management Studies, Invited Paper, *"Loyalty programs,"* Toronto, February 1997.

Association for Consumer Research, *"Special Session Synthesis: Cognitive Evidence for Literary Theory,"* Annual Conference, San Diego, CA., October 1996.

American Marketing Association, Summer Educators' Conference, *"Integrated Marketing Communications,"* San Diego, CA. August 1996.

Columbia University Graduate School of Business, Columbia Invitational Symposium on Choice Modeling and Behavior, New York, July 1996.

American Marketing Association, New York Professional Services Marketing Leadership Council, *"Interactive Marketing,"* New York, NY February 1996.

Quest Futures Group, *"A Future of Advertising and Advertising Agencies,"* Annual Meeting, San Diego, CA., February 1996.

Association for Consumer Research, *"Customer Value: A Framework for Analysis and Research,"* Annual Conference, Minneapolis, MI., October 1995.

University of Illinois, Champaign-Urbana, Marketing Technologies Symposium, *"Interactive Marketing: Evolutionary or Revolutionary?"* IL, September 1995.

American Marketing Association, School of Database Marketing, *"Database Marketing Enters the Marketing Mainstream,"* University of Notre Dame, South Bend, IN, August 1995.

Business Week Forum, *"Branding in an Interactive Communications Environment,"* Forum on Corporate Branding, Chicago, IL., June 1995.

- Association of National Advertisers, *"Integrated Marketing in Practice,"* Scottsdale, AZ., May 1995.
- Association for Consumer Research, *"Constructing Virtual Relationships,"* Annual Conference, Boston, MA., October 1994.
- Association for Consumer Research, *"Framing Consumption as Play,"* Annual Conference, Boston, MA., October 1994.
- American Marketing Association, *"Strategies for Managing Interaction,"* Summer Educators' Conference, San Francisco, CA., August 1994.
- American Marketing Association, *"The Marketing Information Revolution,"* Summer Educators' Conference, San Francisco, CA., August 1994.
- Marketing Science Institute, *"The Future of the Marketing Communications Industry: Implications of Interactivity,"* Cambridge, MA., March 1994.
- American Marketing Association, *"Marketing after Integration,"* Winter Educators' Conference, St. Petersburg, FL., February 1994.
- Association for Consumer Research, *"The Consumption of Performance,"* Annual Conference, Nashville, TN., October 1993.
- Duke Invitational Symposium on Choice Modeling and Behavior, Duke University, Fuqua School of Business, Durham NC July 1993.
- Columbia Business School, *"Marketing and Seduction,"* Marketing Camp, Arden House, New York, NY., June 1993.
- American Marketing Association, *"The Schema for Marketing Strategy Development"* (with Caroline M. Henderson and James P. Walsh), Winter Educators' Conference, California, January 1993.
- ORSA/TIMS, *"The Economics of Addressability,"* Joint National Meeting, San Francisco, CA., November 1992.
- Association for Consumer Research, *"Sincerity, Sham and Satisfaction in Marketplace Performance,"* Annual Conference, Chicago, IL., October 1991.
- American Academy of Advertising, *"Integrated Marketing Communications,"* Reno, NE., March 1991.
- RR Donnelley, *"The Addressable Consumer: Implications for the Practice of Marketing,"* Corporate Technical Colloquium, Chicago, January 1990.
- ORSA/TIMS, *"The Interaction Between Advertising and Promotion,"* (with Caroline Henderson and Scott Neslin), Joint National Meeting, New York, NY., October 1989.
- Advertising Research Foundation, *"Persuasive Effects that Tracking Studies May Miss,"* Tracking Marketplace Performance, New York: June 1988.

4. I declare that I have reviewed and understood the following prior art references:

A US-6434534 B1 08-2002

U Privacy fears raised by DoubleClick database plans by Courtney Macavinta, January 25, 2000, downloaded from <http://news.com.com/2100-1023-236092.html?tag=m.>, 8/8/20

V Privacy Activists File DoubleClick Complaint, by Keith Perine, the Industry Standard, Feb. 10, 2000

W Data Mining: Staking a Claim on Your Privacy, January 1998, downloaded from <http://www.ipc.on.ca/english/pubpres/papers/datamine.htm>, 8/0/02

X Information technology and the privacy of the Individual, The Role of Privacy in Modern Society, by Dave Redell, Sep. 23, 1992 downloaded from <http://home.pacbell.net/webright/personal/acm.text>

U Permission Marketing by Seth Godin, Simon and Schuster, copyright 1999, chapter 10

V Permission Marketing: the Way to make advertising work again (Interactive Marketing) (excerpt from "Permission marketing: Turning Strangers into Friends and Friends into Customers", Chapter 2) also published as Dialog # 01777383, File # 570, by Hoke Communications Inc.

5. I declare that I have read and understood the specification and drawings for application serial number 09/888,439 filed on June 26, 2001, titled "BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES" and have read and understood claim 1, set out below.

6. Reviewed Claim 1.

1. (Amended) A method for buyer-driven targeting by a system comprising:

receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system;

storing information associated with said data;

for a plurality of product or service items offered for sale, wherein different items in said plurality of items are either manufactured or marketed or distributed or provided by different third party advertisers in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with one of the third party advertisers, wherein there is at least one different

preferential contingent incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, each item associated with at least one of said third party advertisers, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity from merchants other than the third party advertiser that is associated with the incentive; and

offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received directly or indirectly from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

7. I declare, based on my 14 years of experience with respect to the direct marketing industry and my knowledge of direct, database and interactive marketing practices, that the invention defined in claim 1 is novel in view of the prior art references cited above and also in view of my knowledge of the art. I also believe the invention to be non-obvious, certainly to a person of ordinary skill in the art, such as a direct or incentive marketer or a database marketing specialist, including one with a focus on the acquisition of new customers or the provision of customer acquisition services. I base this conclusion on the following:

8. I shall use the term "buyer" to refer to buyer entities such as households, individuals and small businesses that consume products and services. I shall use the term "advertiser" to refer to merchants, manufacturers, agents and others who supply products and services to buyers. The invention of claim 1 defines a method, referred to as the "system" to create a working forum or marketplace to link buyers to advertisers. Advertisers may use it to make offers to new buyers with a view to inducing them to become new customers or to significantly improve their relationships with buyers who are already

customers. Buyers may use it to profile themselves in order to get attractive incentives from advertisers without having to reveal their identities to the advertisers.

9. THE PROBLEM: For most advertisers, a relatively small number of their customers account for a disproportionately large share of revenues and profits. Advertisers seek new buyers who are like these high-value customers. They also want to know whether, among the large number of their less profitable customers, there may be some who are disproportionately profitable to competitors and therefore might be induced to spend more with the advertiser. Both needs could be met if advertisers could examine the past purchase histories of buyers for evidence of future potential, and then selectively communicate with the best prospects. However, the prior art provides advertisers with few ways to do so. Efforts to supply advertisers with such information run into several problems that have generally proved intractable until now. The following are the problems as I see them.

First, an advertiser can generally not obtain reliable and relevant purchase information from competing sellers, because these merchants do not want to make their customer lists available to their immediate competitors. For example, a retailer will likely refuse payments made with the card of a credit card company which forwards that retailer's transaction data to competitors.

Second, no single advertiser can provide a comprehensive profile about a particular buyer because that advertiser generally possesses only a fraction of that buyer's purchase history, namely only records of the transactions that the buyer made with that advertiser.

Third, advertisers can generally not sell the individually identifiable information of buyers without obtaining the permission of those buyers (or informing those buyers of their practices in this regard, and allowing them to opt-out). This is because of privacy laws, such as the Gramm-Leach-Bliley Act, and public pressure. I believe most buyers will only rarely grant that permission to let a company – even one that they trust – resell their personal transaction data, because they do not know nor can they control how their information is used by the party or parties to whom their data is sold.

Fourth, while advertisers can in principle pay buyers to supply them with transaction data, they cannot pay the value of the data. The value of each buyer's transaction history is unique to that history, but the advertiser cannot appraise that value without seeing the data. Yet once the data are known to the advertiser, there is no reason to go through with the purchase. Without an intermediary, the prices that advertisers pay buyers for buyer

transaction histories will likely be lower than the value of the histories, especially for those of the most attractive buyers.

Fifth, another reason that advertisers cannot pay the value of the data is that its value further depends on an unknown variable; namely, the willingness and propensity of that buyer entity to actually respond to any promotions that are later sent to that buyer on the basis of the information provided. Therefore this propensity to respond to future promotions cannot be priced into the value of the data.

Sixth, although buyers are sometimes willing to answer questions about their purchase behavior in exchange for a reward, I believe that such information is known to be highly unreliable because buyers may not answer these questions accurately. Buyer answers may be even less reliable if they know that the answers they give to questions would be routinely used to give better rewards to some consumers than to others, because they then have an incentive to lie about their true purchase behavior.

10. I declare that the combination of claim 1 includes the necessary elements to create a marketplace for a fundamental trade between interested buyers and advertisers, with the combination of claim elements creating a variety of unique and non-obvious features, motivations, and synergies. The claimed combination addresses problem 1 because the buyer, not an advertiser, discloses the information to an intermediary (which need not be the system itself.) Problem 2 is addressed by the requirement that there be a participating group of third party advertisers across an industry or across multiple industries. Problem 3 above (the permission problem) is addressed by the fact that the intermediary between these advertisers and the buyer is capable of earning a reputation for trust, making it possible for the provision of the information to be voluntary by the buyer. The claimed combination also goes toward solving problems 4 and 5 above, the information valuation problems, because the consideration offered to the buyer participating in the system is not paid on receipt of the information, but is contingent on the buyer performing specified action. The claimed combination addresses problem 6 because it requires that the information transferred directly or indirectly from the buyer entity be in the form of verified transaction records, so that there is a high potential that the information is reliable.

From the advertiser's standpoint, the advertiser could not cost-effectively afford to make such promotions available to everyone, because doing so would entail attracting "opportunity seekers," by which I mean people who take advantage of the initial promotion despite having no longer-term purchase interest. The system is not accessible to opportunity seekers for several reasons. First the incentives are contingent on buyers

taking specific actions. Second the incentives are preferential, by which I mean differentiated in magnitude among the buyers so that those buyers most valued by an advertiser receive the largest incentive. Third buyers must have directly or indirectly transferred verifiable purchase data to the system before they may participate in the promotions. Note that an unusual effect of this system and method is that it facilitates advertisers targeting their most attractive and expensive promotions to buyers who are frequent customers of their competitors (who obviously would not willingly provide such data for this purpose.)—i.e., the records and/or information are coming from outside the advertiser's own system.

11. With specific reference to Walker '534, this patent is directed to promoting the use within the system of a credit card through incentives. There is no suggestion in Walker to transfer in third party generated records or other verifiable information from outside of the system's credit card payment business, nor is there any suggestion to offer incentives from among a plurality of incentives provided by the third party advertisers, nor to allow any third party advertisers to benefit from the information and potentially access directly or indirectly the purchase records of their competitors. Coupled with the above, there is no making or helping to make a decision regarding the eligibility of a particular buyer entity to be offered a differential contingent incentive from a third party advertiser. Also, the rewards offered by Walker are based only on a particular use of the system's financial account or credit card, and do not relate to the purchase of third party products. Because Walker does not offer third-party incentives and because in Walker there are no third party advertisers, there is no need to find a method which allows these third party advertisers to use information, but without receiving it in personally identifiable form, and there is no recognition of the privacy issue.

12. Based on my 14 years of experience in/with respect to the retail, advertising/marketing industry/ies, it is my opinion that one of ordinary skill in the industry at the time of the filing for this invention, would not have been motivated to either modify Walker or to create a new combination in view of the other prior art references listed above, or in view of any other prior art references that I may be aware of, in order to create the combination of elements of claim 1.

13. The MacAvinta reference and Perine reference refer to the attempted merger of the Doubleclick database with the Abacus database and simply demonstrate that actual

purchase histories are known valuable commodities and discuss potential privacy concerns and the lack of consumer permissions. There is no discussion of the information valuation problem or any of the other elements of the claimed invention. The data mining article published by Ontario's Information and Privacy Commissioner, "Data Mining: Staking A Claim On Your Privacy," simply recognizes that personal information can be a property right of the consumer. The article by Dave Redell on Information Technology and Privacy refers to select merchants using "point-of-sale equipment" to more efficiently capture transaction information at the point of sale which pertains to the goods sold by these same merchants. Seth Godin's Permission Marketing, Chapter 10, and the several case studies he cites, including Bonus Mail by Intellipost, Cybergold, Amazon.com, AOL, Value America, Yoyodyne, InfoBeat and MyYahoo relate to the proposition that it would be more effective to obtain the permission of the consumer before sending him/her communications. However, Godin never contemplates the trade of verifiable transaction information by buyers (or by anyone else) for a benefit, the significant heretofore unsolved problems regarding such a trade, nor any solution to these problems, much less the solution proposed by the present invention. Likewise, I have reviewed each of the other references cited above. These references do not describe the combination of elements set forth in claim 1, or provide a motivation to modify the Walker patent to create a new system that includes the combination of Claim 1, or to create a new system not necessarily based on Walker that includes the combination of Claim 1.

14. It is my opinion that one of ordinary skill in the art would typically be a direct or incentive marketer or a database marketing specialist with a focus on the acquisition of new customers or the provision of customer acquisition services. Despite these specified references, it is my opinion that it is inherently non-obvious for such a marketer to recognize applicant's way of incenting a consumer to self profile in a privacy-protected manner by creating a central profile hosted by a trusted party with the potential for a universe of different cross-industry incentives from independent third party merchants, to thereby obtain a comprehensive past purchase history across a variety of products and industries that give the consumer profile the accuracy necessary for highly tailored incentives, and at the same time, because of the differential nature of these incentives, make the consumer amenable to receiving targeted communications containing these incentives. My opinion that such a system is inherently not obvious, is based on the fact that the system depends for its effectiveness on the simultaneous presence of six elements:



1. That there is a transfer of transaction records or information derived from transaction records into the system from outside the system.
2. That the information is submitted on the initiative of the buyer entity.
3. That the information comprises "*third party purchase records or information derived therefrom.*"
4. That the incentive that is being offered promotes the product of a third party with a distinct business activity.
5. That the buyer receives "*contingent [and] preferential [differential]*" incentives upon the completion of specified actions.
6. That the incentive for the advertiser's product or service is offered to the buyer without disclosing the identity of the buyer to the advertiser.

15. It is my opinion that the present claimed invention has the potential for creating a fundamental synergy generated by an ever-increasing cross-industry database of verifiable buyer entity purchase information incenting an ever-increasing cross-industry set of contingent differential incentives, and vice versa. The greater the number of participating buyers, the greater the attractiveness of the present system to new third party advertisers. In turn, as the number of third party advertisers increases, the system becomes increasingly attractive to buyers, and the number of participating buyers increases as well.

16. It is my opinion that the present claimed invention has a similar synergistic effect with respect to the virtuous cycle between the provision of information of a buyer entity and its response to system-generated incentive offers. As a buyer entity augments its profile with increasingly comprehensive and varied information, it receives better (more highly remunerated) incentive offers, and becomes more likely to respond. As it responds by purchasing products or accepting incentive offers, that information will normally be uploaded into the system as well. Because advertisers/merchants have the greatest interest in paying for the provision of incentive offers to those buyers that have a track record of previously responding to system-generated incentive offers, the attractiveness of their incentive offers increases further, which increases the response of buyer entity, and so forth.

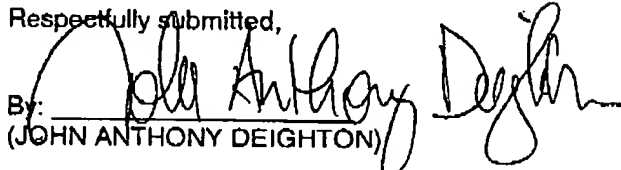
17. It is my opinion that a final synergy that the present system generates is that advertisers compete for the business of buyers by setting incentive reward levels that will give their particular incentive offer a higher standing as buyers sort their incentive offers by

level of attractiveness, or as the system presents these offers to buyers in a sequence determined by their value. As a result of this competition, a market is effectively created for the new business of a buyer entity, based on that buyer entity's purchase record, and its demonstrated propensity to respond to incentive offers for new products and services.

18. Based on my 14 years of relevant experience, I state unequivocally that the combination of elements set forth in claim 1 is novel and non-obvious in view of the cited prior art and in view of my own personal knowledge of the prior art.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

By:   
(JOHN ANTHONY DEIGHTON)

Dated: March 11, 2003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark LANDESMANN  
Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES  
Appl. No.: 09/888,439  
Filing Date: 06/26/2001  
Examiner: Khanh H. Le  
Art Unit: 2100

Commissioner for Patents  
Box NON-FEE AMENDMENT  
Washington, D.C. 20231

Sir:

**DECLARATION UNDER 37 C.F.R. §1.132**

I, Seth Godin, a citizen of the United States, residing at 1 Bellair Drive, Hastings on Hudson, NY 10706, declare and state that:

1. I obtained an MBA from Stanford University in 1984.
2. I was founder and CEO of Yoyodyne, widely considered to be the industry's leading interactive direct marketing company prior to its acquisition by Yahoo! in late 1998.
3. I am the author of four books that have been bestsellers around the world and which I believe have changed the way people think about marketing, change and work. Permission Marketing was an Amazon.com Top 100 bestseller for a year, a Fortune Best Business Book, and it spent four months on the Business Week bestseller list. Unleashing the Ideavirus is widely considered to be the most popular ebook ever written. More than 1,000,000 people downloaded the digital version of this book about how ideas spread. Featured In USA Today, The New York Times, The Industry Standard and Wired Online, Ideavirus hit #4 on the Amazon Japan bestseller list, and #5 in the USA. The Big Red Fez, was the #1 ebook (worldwide) on Amazon for almost a year before it was published in paperback in 2002. Survival is Not Enough has made bestseller lists in Germany, the UK and the United States. With a foreword by Charles Darwin, this breakthrough book redefines what change means to anyone who works for a living.

4. I declare that I have read and understood the specification and drawings for application serial number 09/888,439 filed on June 26, 2001, titled "BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES" and have read and understood claim 1, set out below.

5. I declare that I have reviewed and understood the following prior art references:

A US-6434534 08-2000

U Privacy fears raised by DoubleClick database plans by Courtney Macavinta, January 25, 2000, downloaded from <http://news.com.com/2100-1023-236092.html?tag=rn>, 8/8/20

V Privacy Activists File DoubleClick Complaint, by Keith Perine, the Industry Standard, Feb. 10, 2000

W Data Mining: Staking a Claim on Your Privacy, January 1998, downloaded from <http://www.ipc.on.ca/english/pubpres/papers/datamine.htm>, 8/0/02

X Information technology and the privacy of the Individual, The Role of Privacy in Modern Society, by Dave Redell, Sep. 23, 1992 downloaded from <http://home.pacbell.net/webright/personal/acm.text>

U Permission Marketing by Seth Godin, Simon and Schuster, copyright 1999, chapter 10 (I am the author of this prior art reference.)

V Permission Marketing: the Way to make advertising work again (Interactive Marketing) (Chapter 2 from "Permission marketing: Turning Strangers into Friends and Friends into Customers") Dialog # 01777383, File # 570, by Hoke Communications Inc. (I am the author of this prior art reference.)

6. Reviewed Claim 1.

1. (Amended) A method for buyer-driven targeting by a system comprising:

receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party purchase record or information verifiably derived therefrom, said purchase record or information verifiably derived therefrom comprising data associated with the purchase of products or services for which the payment was not carried out by the system;

storing information associated with said data;

for a plurality of product or service items offered for sale, wherein different items in said plurality of items are either manufactured or marketed or distributed or provided by different third party advertisers in a plurality of third party advertisers, and wherein said manufacture, marketing, distribution or provision is not carried out by the system in the ordinary course of business, making or helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one discriminatory decision associated with the offering of at least one from among a plurality of different preferential contingent incentives, with each incentive associated with at least one of said items and associated with one of the third party advertisers, wherein there is at least one different preferential contingent incentive from each of a plurality of the different third party advertisers, each of said incentives offering at least one benefit in exchange for at least one action associated with a possible purchase of at least one of said items, each item associated with at least one of said third party advertisers, said benefit not normally and publicly accessible to said buyer entity or other buyer entities in the same geographic region on terms which are at least objectively equivalent, and which do not include material conditions that are different from said at least one action, said discriminatory decision regarding the at least one incentive that is to be offered to the buyer entity being based at least in part on stored data relating to purchases made by said buyer entity from merchants other than the third party advertiser that is associated with the incentive; and

offering or facilitating the offering of at least one of said preferential contingent incentives to said buyer entity, without transferring to said third party advertiser directly or indirectly any full name associated with said buyer entity at the time that the incentive is offered but has not yet been responded to by said buyer entity, with the condition precedent for this step that the system has received directly or indirectly from that buyer entity the at least one respective third party purchase record or information verifiably derived therefrom.

7. I declare the following:

ATTY. DKL NO. 084561-0108

- a. I consider the combination of the provision of purchase records from buyer entities --- including in particular the provision of purchase records by accessing online payment and merchant accounts, as described in the application --- with the provision of incentives to these buyer entities in the above mentioned invention in and of itself to be super-clever. This combination is clever indeed!
- b. I did not in any way contemplate the combination of the above elements when writing *Permission Marketing*, nor do I believe that I would have contemplated this full combination, even if someone had asked me to read the above cited references in addition to *Permission Marketing*.
- c. If I had contemplated the above combination, I believe I most probably would have written about it, and explored such a combination in my book.
- d. I consider it highly unlikely that the average marketer at a large brand company or retailer, who works on acquisition of new customers, would discover such a combination on his own, or even by reading the above mentioned prior art references.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 3/7/03

Respectfully submitted,

By: 

(FULL NAME)